

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEW MEXICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 VS.

CR. NO. 15-4268 JB

6 ANGEL DELEON, et al.,

7 Defendants.

8 VOLUME 2

9 Transcript of James Hearing and
10 Daubert/Rodriguez Hearing Proceedings before
11 The Honorable James O. Browning, United States
District Judge, Las Cruces, Dona County, New Mexico,
commencing on November 28, 2017.

12
13 For the Government: Ms. Maria Armijo; Mr. Randy
Castellano; Mr. Matthew Beck

14 For the Defendants: Mr. Brock Benjamin, Mr. Richard
15 Sindel; Ms. Cori Harbour-Valdez; Mr. Patrick Burke;
16 Mr. Jim Castle; Mr. Robert Cooper; Mr. James Lahann;
17 Mr. Orlando Mondragon; Mr. John Granberg; Mr. Scott
Davidson; Ms. Amy Jacks; Mr. Richard Jewkes; Mr. Marc
18 Lowry; Ms. Theresa Duncan; Ms. Amy Sirignano; Mr.
Christopher Adams; Mr. Michael Davis; Ms. Carey
Bhalla; Mr. Ryan Villa; Mr. Donovan Roberts; Ms.
Angela Arellanes; Mr. Samuel Winder

19
20 For the Defendants (Via telephone): Ms. Justine
Fox-Young

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1 THE COURT: Good morning everyone. I
2 appreciate everyone making themselves available to me
3 this morning.

4 Hey, we had a little trouble getting in
5 this morning. So I know tensions are going to run
6 high with what we're having to go through and that
7 we're having to listen to. I know we're getting 61
8 days away from trial. Everybody is getting a little
9 cranky, anxious, overworked, nobody likes to be here
10 eight hours a day or more. But we've got to work
11 together. We've got to work with the marshals.
12 We've got to transport people, got to work with the
13 Court. It's getting harder on all of us if we can't
14 get people in and out quickly. So, gentlemen, just
15 be cooperative with the marshals as they move you in
16 and out. Try to keep your emotions under control.

17 Counsel, speak to your clients. This is
18 part of it, we've got to move in and out so we don't
19 lose 15, 20 minutes every day. This is a lot later
20 than I usually start court. Most days I start 8:30.
21 And they made a concession to marshals on transport;
22 we'll start at 9:00. See, we're starting at 9:20.
23 So we've got to work harder to move in and out. And
24 everybody sort of keep their emotions under control.
25 So everybody work real hard to do that. It's going

1 to be harder as we get closer to trial. They don't
2 call it a trial for nothing. It's a hard thing. But
3 we've got to work together to make sure it happens.

4 All right. I'm ready to resume the James
5 hearing.

6 I understand Ms. Armijo wants to discuss
7 scheduling before we resume the James hearing?

8 MS. ARMIJO: Yes, we did.

9 THE COURT: All right. Ms. Armijo.

10 MR. BECK: So, Your Honor, after we talked
11 about the Daubert motions yesterday, the witnesses
12 aren't available on short notice to get here either
13 today or tomorrow. I'm fairly confident we may have
14 enough material, since we're going to go through the
15 Daubert hearing with two of our gang experts, that
16 we'll have enough material to go through Wednesday.
17 So we would like to schedule the Daubert hearings for
18 at least Ms. Smith and Mr. Chavez, I think the
19 Daubert hearing that Mr. Garcia was requesting for
20 further down the road. And then Dr. Zumwalt, I
21 think, to the extent that a Daubert hearing is
22 required for Dr. Zumwalt -- and my understanding is
23 they're requesting one -- I think that can be put on
24 the back burner since that relates to counts in the
25 second trial, not this trial.

1 THE COURT: Ms. Wild, do you have any
2 thoughts on that? Does that sound doable from a
3 scheduling standpoint, Ms. Wild?

4 MR. VILLA: Your Honor?

5 THE COURT: Hold on.

6 THE CLERK: Judge?

7 THE COURT: Yes.

8 THE CLERK: Can you hear me?

9 THE COURT: Yeah. From a scheduling
10 standpoint, does that sound like it works?

11 THE CLERK: Let me look at a few things.
12 I've got communications coming in from other folks
13 about shuffling some things around. So let me look
14 at it. It would be helpful if folks can give me some
15 kind of a time estimate as to how long they think
16 they're going to need to get this Daubert hearing
17 done.

18 THE COURT: Well, without responding
19 whether that's okay, let's just kick it down the road
20 a little bit, and see how today goes. And then we'll
21 see where we are as the two days develop.

22 MR. BECK: That sounds fair.

23 THE COURT: All right. Thank you, Mr.
24 Beck.

25 Mr. Villa?

1 MR. VILLA: I was going to tell you that
2 Ms. Fox-Young couldn't hear you, so I thought maybe
3 that was what was going on.

4 THE COURT: Can you hear us now, Ms.
5 Fox-Young?

6 MS. FOX-YOUNG: Yes, Your Honor.

7 THE COURT: Ms. Sirignano?

8 MS. SIRIGNANO: Your Honor, I just would
9 ask that -- I appreciate what the Government is
10 trying to do here with getting these experts in from
11 Quantico. My request would be to just try and get it
12 set up before Christmas, with the dates that we have
13 already calendared for the hearings. That's just our
14 request.

15 THE COURT: Well, I'm sure Ms. Wild can
16 hear you. Communicate that to her, talk to Mr. Beck.
17 I probably can't, you know, realistically sort all
18 that out this morning. So we'll just -- you talk to
19 the Government, talk to Ms. Wild, and bring it up
20 before we leave here tomorrow.

21 MS. SIRIGNANO: Thank you, Your Honor.

22 THE COURT: All right. Thank you,
23 Ms. Sirignano.

24 All right. Mr. Acee, if you'll return to
25 the witness box. Mr. Acee, I'll remind you that

1 you're still under oath.

2 Ms. Jacks, did you have some further
3 questions overnight?

4 MS. JACKS: I actually don't.

5 THE COURT: Really? Okay.

6 Ms. Sirignano, are you up next? Mr. Adams?

7 MS. SIRIGNANO: Mr. Adams is.

8 THE COURT: All right. Mr. Adams.

9 EXAMINATION

10 BY MR. ADAMS:

11 Q. So you made one reference, I think, Special
12 Agent Acee, to statements attributed to Chris Garcia?

13 A. I think that's correct.

14 Q. And that was only in relation to statements
15 communicated to you by Timothy Martinez?

16 A. Yes.

17 Q. And did you give that full statement in
18 your direct?

19 A. I think I read from my report. I think I
20 did.

21 Q. And that was your report which you handed
22 over to us for us to be able to look at?

23 A. Yes, sir.

24 Q. And there were three reports related to
25 statements made by Timothy Martinez?

1 A. Yes.

2 Q. To law enforcement?

3 A. Yes.

4 Q. And which report were the Chris Garcia
5 references in?

6 A. They're on page 3 of the January 26, 2017
7 meeting with Tim Martinez.

8 Q. What number meetings or debriefings was
9 that for Mr. Martinez?

10 A. I think that was the third one. Yes, the
11 third one.

12 Q. Had Mr. Garcia been referenced prior to
13 that?

14 A. I don't think so, because we primarily
15 covered the Molina murder.

16 Q. What was the context in which the
17 statements being attributed to Mr. Garcia came up?

18 A. Well, I usually follow a format in the
19 debriefs. And so one of the standard questions I ask
20 is about the Shane Dix homicide. I also ask about
21 other members. And then I ask about the defendants
22 that either haven't cooperated or haven't entered a
23 plea. And so in covering that format, that's how
24 Mr. Garcia came up.

25 Q. So you would just run through a list of

1 people who still had active cases?

2 A. Yes.

3 Q. And you said: What do you know about Chris
4 Garcia?

5 A. No, that's a little too broad. I generally
6 ask if -- with regard to Mr. Garcia, I usually ask
7 what they think of him, what they know about him,
8 whether or not they had any interactions with him,
9 with drugs, and if they knew anything about the Shane
10 Dix homicide, or any other useful material in our
11 investigation.

12 Q. And what -- who was present when you had
13 this conversation with Timothy Martinez?

14 A. So this third conversation took place here
15 at this courthouse when Mr. Martinez pled, and his
16 attorney notified me that Mr. Martinez wanted to
17 speak with me. So I joined Mr. Almanza in visiting
18 with his client down in the attorney-client room, so
19 it was the three of us.

20 Q. After the plea?

21 A. Yes.

22 Q. And that's when he told you that he had had
23 conversations with Chris Garcia at Otero?

24 A. He told me -- he started off by clarifying
25 some details of his earlier debrief. And then the

1 conversation kind of followed in a chronological
2 order as reported, as documented in my 302. So he
3 walked away from the first debrief like a lot of the
4 guys will do. And then he'll, at the second debrief,
5 he'll produce a note either out of his sock or his
6 attorney will provide it to me of other stuff they
7 went back after the first debrief and thought of. So
8 that's what took place at this third debrief.

9 Q. A note from the sock, or a note from --

10 A. I think he pulled a -- yeah, he pulled a
11 piece of paper out of his sock or his shoe. And that
12 was material that he wanted to cover. So he had
13 organized his own notes, so --

14 Q. And was Chris Garcia and this alleged Otero
15 conversation on that list?

16 A. That was one of the things that he covered,
17 yes.

18 Q. And it was one of the things referenced
19 specifically on his list from the sock, or wherever?

20 A. Yes.

21 Q. And do you have that note?

22 A. I don't think I do. I think his attorney
23 kept it.

24 Q. So let's talk about this alleged
25 communication out in the prison yard. Where was this

1 supposed to have occurred?

2 A. At the Otero prison facility when all the
3 defendants were there.

4 Q. Out in the rec yard?

5 A. Yes.

6 Q. When?

7 A. Well, I understood it to mean when we
8 initially arrested everyone, they went to MDC up in
9 Bernalillo County. From there, they went down to
10 Otero. So within a few days to maybe about a
11 week-and-a-half of the December arrest. And then
12 from that point, the marshals disbursed the
13 defendants to different facilities. So I don't have
14 an exact date, and I don't think Mr. Martinez did
15 either.

16 Q. Who else was around for this conversation?

17 A. It was just the two of them.

18 Q. Were other people out in the yard?

19 A. Yes.

20 Q. Who else would have seen these two
21 gentleman talking privately with each other?

22 A. Perhaps some of the gentlemen here today.
23 The defendants were housed together and would -- my
24 understanding is they would -- initially they rec'd
25 together.

1 Q. Do you have any corroboration of that other
2 than what Mr. Martinez told you?

3 A. I don't.

4 Q. No video of the yard?

5 A. No.

6 Q. No logs showing them out in the yard
7 together at the same time?

8 A. No.

9 Q. Did you attempt to get any corroboration of
10 this alleged communication?

11 A. No.

12 Q. How much time passed between the alleged
13 communication and when it was reported to you?

14 A. A little over a year.

15 Q. And is that the only hearsay-type statement
16 related by Mr. Martinez regarding Mr. Garcia, the one
17 you went through on your direct examination
18 yesterday?

19 A. I believe so.

20 Q. You read from Mr. Martinez' third 302?

21 A. I believe so.

22 Q. And all those statements were clearly after
23 the conclusion of the incident related to Mr.
24 Marcantel, correct, 13 months after the arrest?

25 A. Yes.

1 MR. ADAMS: May I have the Court's
2 indulgence?

3 THE COURT: Certainly.

4 MR. ADAMS: Thank you. Nothing further.

5 THE COURT: Thank you, Mr. Adams.

6 Anyone else want to question Mr. Acee on
7 the Molina side? Mr. Villa?

8 MR. VILLA: Thank you, Your Honor.

9 MR. CASTELLANO: Your Honor, Mr. Villa
10 questioned Agent Acee yesterday. Is he getting a
11 second shot?

12 THE COURT: Yes, he did. But given that
13 the defendants may not always have the same
14 interests, I probably am going to be a little bit
15 generous, liberal, to the defendants, to make sure
16 they exhaust their questions before I turn it back
17 over for redirect. So Mr. Villa.

18 MR. VILLA: And I appreciate that, Your
19 Honor. As the Court recalls, I didn't get an
20 opportunity to review Agent Acee's notes as I began
21 his cross-examination. So I think I had reserved in
22 order to do this.

23 EXAMINATION

24 BY MR. VILLA:

25 Q. Agent Acee, I just want to back up a little

1 bit. You talked about the December arrests; correct?

2 A. Yes.

3 Q. Those arrests were made following the first
4 indictment in this case?

5 A. Correct.

6 Q. And Mr. Perez was not included in that
7 first indictment; true?

8 A. True.

9 Q. He wasn't arrested in December on any other
10 basis by you?

11 MR. CASTELLANO: Objection, relevance.

12 THE COURT: Overruled.

13 A. No, he was not.

14 Q. Or anybody under your direction?

15 A. No.

16 Q. And, in fact, he was not charged in this
17 case until the first superseding indictment, which
18 occurred in approximately April of 2016?

19 A. That's right.

20 Q. So let me take you back. I had asked you,
21 when I first examined you yesterday, about statements
22 Mr. Martinez made during his debrief to you relative
23 to the wheelchair program. Do you remember that?

24 A. Yes.

25 Q. And I think you testified that you didn't

1 recall exactly what Mr. Martinez had said. I might
2 be a little bit off about what you said yesterday.
3 Does that sound right?

4 A. I don't remember that part of our
5 conversation, but --

6 Q. Let me ask you this: Isn't it true that
7 Mr. Martinez told you that at the Southern New Mexico
8 Correctional Facility, which I'll just call Southern,
9 that inmates who were members of SNM used to steal
10 metal from the wheelchair program to fashion into
11 shanks?

12 A. Yes.

13 Q. And he also told you that two of those
14 inmates, Dale Chavez and Jason Wright, would bring
15 those metal pieces back and give them to Daniel
16 Sanchez and Mario Rodriguez?

17 A. Yes.

18 Q. And it's true, isn't it, that both Dale
19 Chavez and Jason Wright were in the blue pod, same
20 pod where Daniel Sanchez and Mario Rodriguez were?

21 A. Yes.

22 Q. The same pod where Javier Molina was
23 killed; correct?

24 A. Yes.

25 Q. Now, when Mr. Martinez told you about the

1 statements that Daniel Sanchez made with regard to
2 the source of the shanks used on Javier Molina, he
3 didn't tell you that he had any other basis to
4 believe that, other than what Daniel Sanchez said to
5 him; correct?

6 A. Well, yes, and no. I mean, yes, in that he
7 related what Daniel Sanchez told him. But with
8 regard to the shanks, I think he also heard about
9 that from Mario Rodriguez.

10 Q. Okay. So Mario Rodriguez, who I think you
11 also testified allegedly told Jerry Montoya when he
12 gave him the shank, it came from Rudy Perez' walker?

13 A. I think that's accurate.

14 Q. I mean, I think that was part of your
15 testimony yesterday, and what Jerry Montoya told you;
16 true?

17 A. Yes.

18 Q. But other than what Timothy Martinez had
19 heard, he didn't have any other basis? For instance,
20 he didn't see anybody taking Mr. Perez' walker or
21 removing pieces from Mr. Perez' walker, that sort of
22 thing?

23 A. No, he didn't tell me that.

24 Q. And Mr. Perez was also in the blue pod, the
25 same pod where all of our players were; correct?

1 A. Yes, sir.

2 Q. You didn't see any video evidence
3 demonstrating somebody going into Mr. Perez' room,
4 removing the walker, taking pieces from the walker,
5 anything like that?

6 A. I have not.

7 Q. Any video evidence at all corroborating the
8 statements that Timothy Martinez told you?

9 A. With regard to getting metal pieces out of
10 Mr. Perez' cell, no.

11 Q. Yeah, that should be --

12 A. No.

13 Q. Nothing like that?

14 A. No.

15 Q. And video cameras do capture the rooms in
16 the pod; true?

17 A. Externally, the doorway.

18 Q. But if the door was open and somebody went
19 in, you could see that?

20 A. Parts of the room, yes.

21 Q. And maybe you could see somebody trying to
22 dismantle the walker?

23 MR. CASTELLANO: I'm going to object again.
24 Once again, we're getting away from the actual
25 statements.

1 THE COURT: Tie it to the James portions
2 here.

3 MR. VILLA: Again, Your Honor, the second
4 element that the Government must establish is that
5 Mr. Perez was member of this conspiracy to kill
6 Javier Molina. This would be independent evidence
7 other than the statements we've heard that would or
8 would not corroborate that.

9 THE COURT: Well, I'll give you a little
10 leeway. But let's tighten it up on the statements.

11 Q. And I think that's probably the end of this
12 line. But Agent Acee, just to answer that last
13 question, the video could capture somebody going into
14 the room messing with the walker?

15 A. That's possible, yes.

16 Q. Now, the Government in its response has
17 said that the shanks apparently used to kill Javier
18 Molina make a perfect fit to Mr. Perez' walker. Are
19 you familiar with that?

20 A. I have heard that.

21 Q. Where is Mr. Perez' walker?

22 A. I'm not sure.

23 Q. Are you aware whether it's being held in
24 evidence anywhere?

25 A. I don't believe it is.

1 Q. Isn't it true that the walker is gone?

2 A. Well, I don't know where it is. It's
3 not -- unfortunately, it's not unusual for
4 Corrections to have evidence somewhere, and I don't
5 always know about it until sometime later. But I
6 have not seen it and I don't know where it is.

7 Q. And you, yourself, didn't take some of the
8 shanks recovered following Mr. Molina's murder and
9 try to see if they fit in a walker, did you?

10 MR. CASTELLANO: Objection as to relevance,
11 Your Honor.

12 THE COURT: Overruled.

13 A. I have not handled the shanks at all or
14 pieces of them, or the walker.

15 Q. Anybody under your direction have done the
16 same thing?

17 A. No.

18 Q. So nobody came to you from the Department
19 of Corrections and said: I matched this up to a
20 walker that I believe came from Mr. Perez, and it's a
21 perfect fit?

22 A. No one came to me and did that. And I
23 didn't direct anyone to do that. I have heard some
24 conversation or back and forth on someone possibly
25 having done that. But it wasn't me or any of the

1 agents that work with me.

2 Q. And have you seen any reports or photos of
3 such a demonstration being done?

4 A. No, I think I've only seen photos of the
5 weapons themselves, the evidence photos. But I don't
6 think I've seen any photos of the comparison.

7 Q. There is a photo of a walker; correct?

8 A. I believe so.

9 Q. Do you have any idea who took that photo?

10 A. I believe the Department of Corrections or
11 the State Police.

12 Q. But you don't know which one?

13 A. As I sit here, no, I don't know.

14 Q. And as you sit here today, you don't know
15 where the walker in question is, or if it's still
16 available?

17 A. That's right.

18 MR. VILLA: That's all my questions, Your
19 Honor.

20 THE COURT: Thank you, Mr. Villa.

21 Anyone else on the defense side that wants
22 to cross-examine Mr. Acee on the Molina murder,
23 alleged Molina murder?

24 All right. Mr. Castellano, do you have
25 redirect of Mr. Acee?

1 MR. CASTELLANO: Yes, Your Honor.

2 THE COURT: Mr. Castellano.

3 REDIRECT EXAMINATION

4 BY MR. CASTELLANO:

5 Q. Just a follow-up from yesterday, Agent
6 Acee. People asked you -- Mr. Lowry asked you about
7 people sometimes making false claims about various
8 acts they've done for the SNM. Do you recall that?

9 A. Yes.

10 Q. And are you aware that sometimes there are
11 also consequences for people making false claims
12 about criminal conduct?

13 A. Yes.

14 Q. What kinds of consequences are you aware
15 of?

16 A. That's one of the questions I will usually
17 ask the SNM members that I talk to. And the
18 consequences have ranged from some guys saying that's
19 tolerable or acceptable, it happens; to others saying
20 that they should get a beat-down for it.

21 Q. Now, other than face-to-face communications
22 within the prison system, how else can inmates
23 communicate with each other?

24 A. Through third parties, three-way calls,
25 through kites, wilas, or notes; through correctional

1 staff either, you know, intentionally passing a
2 nefarious message, or unintentionally doing it.

3 Q. So is it then possible that people can
4 communicate with each other, including communicating
5 orders to hit somebody without having a face-to-face
6 interaction?

7 A. Yes.

8 Q. And explain the third party communications
9 you mentioned.

10 A. Well, the inmates -- obviously, their calls
11 are recorded, with the exception of legal calls. The
12 way the three-way call works is that an inmate places
13 a call to, say, a girlfriend, who then simply puts
14 her phone on speaker, has a secondary phone, and
15 calls another party. I've observed this where two
16 inmates at different facilities are able to talk to
17 each other through that three-way call.

18 Q. Yesterday Ms. Jacks asked you about Lupe
19 Urquizo and when you first spoke to him. Do you
20 remember that?

21 A. Yes.

22 Q. And you first -- well, you stated you first
23 learned about him in court. Do you remember that?

24 A. Yes.

25 Q. How was it that you learned about him in

1 court?

2 A. We were having, I believe it was a motions
3 hearing, and I overheard one of Mr. Sanchez'
4 attorneys mention Lupe Urquizo. And I don't want to
5 misquote him, but the gist of it was Lupe Urquizo was
6 the one that brought the paperwork down from PNM to
7 Southern. That piqued my interest and so I went and
8 talked to him.

9 Q. And when you talked to him the first time,
10 was he represented by counsel?

11 A. No.

12 Q. And had you learned that anyone else had
13 spoken to him before you had spoken to him?

14 A. Yes.

15 Q. Who was that?

16 A. Ms. Jacks, and possibly a defense
17 investigator.

18 Q. I wanted to clarify the statement made by
19 Chris Garcia that Timothy Martinez relayed to you.
20 At that point, was he housed with Defendant Garcia,
21 or had he been moved?

22 A. At the time in which he told me the
23 statement, they were no longer housed at the same
24 facility. At the time that he spoke with Garcia,
25 they obviously were.

1 Q. Relating to Mr. Perez, have other members
2 indicated to you that Mr. Perez is a member of the
3 SNM?

4 A. Yes.

5 Q. And are you aware of him making admissions
6 to law enforcement that he's a member of SNM?

7 A. Yes.

8 MR. CASTELLANO: May I have a moment, Your
9 Honor?

10 THE COURT: You may.

11 MR. CASTELLANO: Thank you, Your Honor. I
12 pass the witness.

13 THE COURT: Thank you, Mr. Castellano.

14 All right. Mr. Acee, you may step down.
15 Thank you for your testimony.

16 You have something, Mr. Lowry?

17 MR. LOWRY: I do. He just opened it up on
18 redirect, Your Honor.

19 THE COURT: All right. Mr. Acee, if you'll
20 be seated and take Mr. Lowry's questions. Mr. Lowry.

21 MR. LOWRY: Thank you, Your Honor.

22 EXAMINATION

23 BY MR. LOWRY:

24 Q. Good morning, Mr. Acee, Special Agent Acee.

25 A. Good morning.

1 Q. You had mentioned about consequences for
2 taking credit for something you didn't do?

3 A. Yes.

4 Q. And what are some of the types of
5 consequences? You said there were beat-downs or --
6 what else?

7 A. Well, in some cases some of the members
8 told me that they didn't really see it as a problem,
9 and that it's a common occurrence to take credit for
10 something they didn't do or to brag.

11 Q. And sometimes consequences for violating
12 the rules of the organization, you could be kited out
13 or sent to Level 6?

14 A. I think that occurs. I don't know that
15 that's part of reglas or the rules, but I think that
16 does occur, yes.

17 Q. So if you didn't live up to the standards
18 of the SNM, you could be removed from, for instance,
19 Southern facility, here in Las Cruces, to Level 6,
20 based on the communication of other alleged members
21 of the SNM to the Correctional Department?

22 A. I think anyone -- yes, I think anyone can
23 send a kite at any time saying anything.

24 Q. Now, you had mentioned just on redirect
25 that the first time you were aware that Lupe Urquizo

1 may have been involved was something you overheard in
2 the courtroom after the case had been indicted?

3 A. Yes.

4 Q. How long have you been actively involved in
5 the investigation of this case?

6 A. It started in March of 2015. I was up at
7 the facility investigating a different gang. And the
8 letters came out, and so that's when I was asked to
9 look into it.

10 Q. Now, from March of 2015 forward, were you
11 involved with looking at Jerry Armenta's
12 participation in the allegations with the Molina
13 murder?

14 A. Yes.

15 Q. Did you review the videotaped interview in
16 the state case that was done at the Department of
17 Corrections?

18 MR. CASTELLANO: Objection. This is beyond
19 the scope of redirect, Your Honor.

20 MR. LOWRY: Your Honor, I can tie this
21 straight --

22 THE COURT: I'm going to give you a little
23 leeway. Then I'll give Mr. Castellano an opportunity
24 to expand his redirect. Overruled.

25 A. At the time I heard Urquizo's name, I had

1 not. I have since then, though.

2 Q. My question is very simple: Did you review
3 the videotaped -- I would call it interrogation; you
4 might take offense to that -- but the videotaped
5 conversation between the Department of Corrections
6 staff, the state prosecutor, and Jerry Armenta?

7 A. Well, my answer is I have seen it. But it
8 sounds like you're asking me had I seen it prior to
9 hearing the name in court.

10 Q. Well, let me ask you really simply: When
11 did you first review the video?

12 A. Maybe about nine months ago.

13 Q. So you hadn't reviewed that video before
14 the case was indicted?

15 A. No.

16 Q. But you are aware in that video, having
17 reviewed it, that Jerry Armenta pinpointed Lupe
18 Urquizo as one of the two people that, quote,
19 "donkeyed the paperwork down"?

20 A. Yes.

21 Q. That wasn't of interest to you at the time
22 the statement was made by Mr. Armenta to
23 prosecutorial officials and Department of Corrections
24 officials?

25 A. It was. But there were so many different

1 versions of what happened, I was trying to put my own
2 eyes on it, and look at it from an unbiased or fresh
3 perspective, not relying on the prior stuff.

4 Q. What do you mean "different versions of
5 what happened"?

6 A. Well, their initial version of what
7 happened that they told the state investigators,
8 versus what they're telling me in their second or
9 third debrief. There are a lot of variance and
10 differences.

11 Q. And, for instance, one of those differences
12 may have led the United States Government to
13 incorrectly indict Mauricio Varela for the Molina
14 murder?

15 A. I don't think he was incorrectly indicted.
16 I had -- as more defendants began cooperating, I
17 learned more. And at the time we sought the
18 indictments, we went with the information that we had
19 at the time. I don't want say it was incorrect. I
20 just learned more since then.

21 Q. And since you learned more, the Molina
22 counts against Mr. Mauricio Varela were dropped,
23 weren't they?

24 A. I believe they were.

25 Q. And that's because you learned that the

1 initial statements that you relied upon were
2 unreliable?

3 A. Yeah. We got clarity, we got more
4 information. I mean, the decision to drop a case
5 certainly isn't mine, to drop an indictment. But my
6 role is to keep gathering information and try to
7 verify stuff, and then report that back to the
8 prosecutors.

9 Q. That's fair enough. But it's also fair to
10 say that, as you gather information, that changes the
11 legal landscape of a case?

12 A. That's fair, yes.

13 Q. And in some cases the information you learn
14 may change the legal landscape to the point where the
15 right thing to do is to dismiss a charge?

16 A. Absolutely.

17 MR. LOWRY: I have no further questions,
18 Your Honor.

19 THE COURT: Thank you, Mr. Lowry.

20 Any other defendant following up on
21 redirect or Mr. Lowry's questions, have any questions
22 of Mr. Acee?

23 MS. JACKS: I do, Your Honor.

24 THE COURT: Ms. Jacks.

25 MS. JACKS: Thank you.

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EXAMINATION

BY MS. JACKS:

Q. Good morning, Agent Acee.

A. Good morning.

Q. I want to start with some questions that Mr. Castellano asked you this morning regarding the way inmates communicate with each other. And I think you listed that you said there are ways other than face-to-face conversations that inmates can communicate with each other?

A. Yes.

Q. And is that something that you've been aware of prior to beginning your investigation in this case?

A. Yes.

Q. So you knew this back before you became involved in March of 2015?

A. That inmates can communicate?

Q. In various ways.

A. Yes.

Q. Through notes, through phone calls, in rec cages, through third parties. You're aware of that?

A. Yes.

Q. That's not something that's new to you?

A. No.

1 Q. And when you're interviewing somebody that
2 is trying to be a cooperator for the Government,
3 somebody that's trying to leverage information they
4 have for a reduced punishment, you interview that
5 person differently than, say, an eyewitness to a
6 crime, right?

7 A. Perhaps.

8 Q. Perhaps you're a little more suspect about
9 the information that they're giving you?

10 A. I'm always suspect, but probably a little
11 bit more.

12 Q. And you want to make sure that you pin them
13 down about things that they're telling so you that
14 can you go either corroborate, cross-reference it, or
15 check it out?

16 A. Yes.

17 Q. And that's something that you were doing
18 ever since you started working on this case, right?

19 A. Yes.

20 Q. It's not something that you just learned to
21 do?

22 A. No.

23 Q. And so is it fair to say that when you were
24 interviewing cooperators involved, or informants
25 involved in this case, that it was in your mind that

1 you needed to test their information?

2 A. Yes.

3 Q. That you needed to try to pin down their
4 information or what they were trying to give to you?

5 A. Yes.

6 Q. And it was also in your mind that inmates
7 can communicate in many different ways?

8 A. Yes.

9 Q. And so, with that in mind when you were
10 questioning these informants, did you, when they told
11 you, Oh, I heard this from so and so, did you then
12 try to pin them down on how they heard it?

13 A. In some instances, yes. In others, no.

14 Q. Well, was one of the things that you asked
15 these informants -- let's say, for example, Mr.
16 Urquizo, when Mr. Urquizo claimed to have had a
17 conversation with somebody, did you ask him when and
18 where and how?

19 A. Yes.

20 Q. And if he told you that information, if he
21 was able to tell you that information, did you put it
22 in your report?

23 A. Yes.

24 Q. With respect to the questions this morning
25 about Lupe Urquizo, when you spoke with Mr. Urquizo,

1 did you ask him whether he had met with other people
2 from the defense, met with people from the defense?

3 A. Yes. By way of introduction, I told him I
4 was there because his name came up in court.

5 Q. Okay. And did he tell you that he had met
6 with me and an investigator working on behalf of Mr.
7 Sanchez?

8 A. Yes.

9 Q. And I would assume you were curious about
10 what he might have told us?

11 A. Yes.

12 Q. Because you don't have a copy of the report
13 of that interview, do you?

14 A. No.

15 Q. And did you ask Mr. Urquizo what he told me
16 and my investigator when we spoke with him about this
17 story regarding paperwork being transferred from PNM
18 to Southern?

19 A. I didn't frame the question that way. I
20 was after the same information. I wanted to know:
21 Why is Mr. Sanchez' defense team bringing your name
22 up in court, and what do you have to do with this?

23 Q. So that's what you told Mr. Urquizo?

24 A. Yes.

25 Q. And what did he say?

1 A. Well, we had a couple-hour conversation.

2 Q. Well, what did he say about what he told us
3 regarding he was the person who transported the
4 paperwork to Southern?

5 A. I think that he said that he lied to you
6 and said that he was not. And then he had some
7 comments about that. And then this is where he
8 started getting kind of nervous, and he said
9 something along these lines -- this isn't a direct
10 quote -- I know what you're looking for, I know the
11 information, but what's going to happen to me?

12 And so I explained the possibilities of
13 what could happen. We went back and forth on that.
14 We got to the point where I thought it was best to
15 probably get him an attorney so that he could feel
16 comfortable being truthful.

17 Q. So this was in the first meeting that you
18 had with him?

19 A. Yes.

20 Q. And he said: I know what you're looking
21 for. What's going to happen to me?

22 A. Those aren't direct quotes, but I'm
23 summarizing a two-hour conversation.

24 Q. And did you tell him in that conversation
25 that if he provided you with what you were looking

1 for, that you could do something for him?

2 A. Not that -- no, not -- I talked about the
3 possibilities. I did not --

4 Q. Possibilities of what?

5 A. Well, like charging him in the homicide,
6 doing his time in the feds instead of the state, of
7 getting him an attorney. I talked to him about what
8 I perceived to be the realistic possibilities with
9 him giving us that information.

10 Q. So before he told you anything about the
11 paperwork, you gave him information about benefits he
12 could receive if he told you what you were looking
13 for?

14 A. Getting charged by the feds and getting
15 additional time is not a benefit. I wouldn't
16 consider that a benefit.

17 Q. Well, the way you phrased it, going and
18 doing his time in the feds, and getting an attorney,
19 were those benefits?

20 A. I don't think so.

21 Q. What about money or social visits?

22 A. No.

23 Q. Or confinement conditions?

24 A. No. Those are all things that are part of
25 the process of cooperation, but those aren't things

1 that I advertise in our first sit-down.

2 Q. So did you talk to him about it in your
3 second and third sit-downs, things like money, social
4 visits, and improved conditions of confinement?

5 A. Yes, not exactly in those terms, but
6 ultimately, it's the same thing. Security concerns;
7 that has to do with probably comfort level and what
8 facility they're at.

9 Q. In the first conversation you had with Mr.
10 Urquizo did you tell him that it was possible that he
11 could be charged with racketeering or VICAR charges?

12 A. Yes.

13 Q. And that he could face a punishment of life
14 in prison, or worse?

15 A. I don't know that I said that. But I
16 definitely said that he could be charged with
17 racketeering offenses.

18 Q. And in any of your interactions with Mr.
19 Urquizo -- well, have you paid Mr. Urquizo any money
20 from the first time met with him till now?

21 MR. CASTELLANO: Objection, Your Honor.
22 We're way beyond the statements at this point.

23 THE COURT: How do you tie that to the
24 James hearing?

25 MS. JACKS: I think it goes to the

1 credibility, and whether or not the statement was, in
2 fact, made.

3 MR. CASTELLANO: Credibility is for
4 impeachment at trial, Your Honor.

5 THE COURT: I think we better leave that
6 for another day. Interesting question, but I think
7 we better leave it for another day. Sustained.

8 Q. Now, if I understand your testimony
9 correctly, in your second interview with Mr. Urquizo,
10 where he had his attorney there, he told you that he
11 was the person, not Mauricio Varela, that brought
12 paperwork from PNM to Southern?

13 A. Yes.

14 Q. And that was on what date?

15 A. I don't know. I'd need to look at my
16 reports.

17 Q. Do you have your reports?

18 A. No.

19 Q. Was that -- well, let's just go back for a
20 second. Was that in 2016?

21 A. I don't think so. I think it was 2017.
22 I'm not entirely sure, though. It took us months to
23 get him an attorney. The process was really drawn
24 out.

25 Q. It took you months to go back and talk to

1 him the second time?

2 A. Yes.

3 Q. When he told you that, did you make any
4 disclosures? Did you tell that to the Government
5 prosecutors that Mr. Urquizo said he brought the
6 paperwork, and the role they'd assigned to Mr.
7 Varela, and the thing they'd indicted him for was
8 untrue?

9 A. No.

10 Q. And you didn't tell the prosecutors?

11 A. The prosecutors were present during the
12 second -- any subsequently debriefs, at least one of
13 the prosecutors was there.

14 Q. And after Mr. Urquizo provided you that
15 information, what efforts, if any, did you on behalf
16 of the Government make to correct the presentation to
17 the Grand Jury?

18 A. Well, I sought out corroborating
19 information.

20 Q. On Mr. Urquizo's statements?

21 A. Yes, on the whole transaction, on whether
22 or not Varela -- because others said Varela did it.

23 Q. And so what corroborating information did
24 you find, if any?

25 MR. CASTELLANO: Same objection, Your

1 Honor. We're getting away from statements.

2 THE COURT: Sustained.

3 MS. JACKS: I have nothing further.

4 THE COURT: Thank you, Ms. Jacks.

5 Any other defense lawyers that want to
6 follow-up on this line of questioning, Mr.
7 Castellano's questioning?

8 All right. Mr. Castellano, you have
9 redirect?

10 REDIRECT EXAMINATION

11 BY MR. CASTELLANO:

12 Q. Agent Acee, when it comes to Mauricio
13 Varela, did you have information in this case
14 initially that both he and Lupe Urquizo brought the
15 paperwork down to Southern?

16 A. Yes.

17 Q. And also during this investigation have you
18 learned that Mauricio Varela was present during
19 conversations related to the hit on Mr. Molina?

20 A. Yes.

21 MR. CASTELLANO: I have no further
22 questions, Your Honor.

23 THE COURT: All right. Thank you, Mr.
24 Castellano.

25 All right. Mr. Acee, you may step down.

1 All right. How do we want to proceed? Do we want to
2 have argument now on the James hearing and those
3 related here? Do we want to take testimony? How do
4 we want to proceed, Mr. Castellano?

5 MR. CASTELLANO: Your Honor, we have more
6 testimony to present to the Court.

7 THE COURT: Okay. I recall that now. I
8 apologize.

9 MR. CASTELLANO: What I want to at least
10 propose to the Court is Agent Stemo is prepared to
11 present testimony on three other people related to
12 the Molina murder.

13 THE COURT: Okay.

14 MR. CASTELLANO: To the best we can,
15 assuming we haven't left anything out, I'd like to
16 close out the Molina murder, and then any residual
17 statements, and then potentially take a break from
18 that testimony, and move to the experts, because
19 we've had them sitting here since yesterday. So I
20 think we can get them on and off, that would be
21 great. But it's up to the Court obviously.

22 THE COURT: No, that sounds fine with the
23 Court. I think we ought to cooperate to get
24 witnesses on or off. Anybody have any objections so
25 proceeding?

1 All right. That's how we will proceed.

2 MR. CASTELLANO: All right. With that, we
3 will call Special Agent Nancy Stemo.

4 THE COURT: Ms. Stemo, if you'll come up
5 and stand next to the witness box on my right, your
6 left. Before you're seated, Ms. Solis will swear you
7 in.

8 NANCY STEMO,
9 after having been first duly sworn under oath,
10 was questioned and testified as follows:

11 DIRECT EXAMINATION

12 THE CLERK: Please be seated and state and
13 spell your name for the record.

14 THE WITNESS: Nancy Stemo; N-A-N-C-Y,
15 S-T-E-M-O.

16 THE COURT: Ms. Stemo. Mr. Castellano.

17 MR. CASTELLANO: Thank you, Your Honor.

18 BY MR. CASTELLANO:

19 Q. Ms. Stemo, I want to draw your attention to
20 statements or information provided by Jerry Armenta.
21 And can you tell the Court what Mr. Armenta said that
22 Daniel Sanchez said to him or ordered him to do?

23 A. Daniel Sanchez ordered Armenta to carry out
24 the hit on Javier Molina because he needed to put in
25 work for the SNM. And he stated that if Armenta

1 refused, he could also be killed.

2 Q. And what did he say that Mr. Sanchez said
3 during the time that Mr. Armenta was assaulting
4 Javier Molina?

5 A. After Javier Molina exited his cell and
6 Jerry Armenta and Jerry Montoya were following Molina
7 down to the bottom tier, Armenta overheard Daniel
8 Sanchez saying, "Get him, get him."

9 MR. CASTELLANO: While we're on Mr.
10 Armenta, Your Honor, that's related to the Molina
11 murder. I'm going to shift gears towards the Gregg
12 Marcantel/Dwayne Santistevan counts. I think those
13 are Counts 9 and 10.

14 Q. What did Mr. Armenta tell you about
15 conversations he had related to the Marcantel
16 conspiracy to murder?

17 A. Jerry Armenta mentioned that Robert
18 Martinez had told him that Robert Martinez and Roy
19 Martinez had put a hit order on Gregg Marcantel and
20 Dwayne Santistevan.

21 Q. Okay. Now, I want to turn your attention
22 to a conversation you had with Mario Rodriguez. Did
23 you have a chance to speak to him?

24 A. I did.

25 Q. I want to draw your attention to -- I think

1 it's page 5 of your report. What did Mr. Rodriguez
2 indicate about a statement made to him by Daniel
3 Sanchez related to the Molina paperwork?

4 A. While Rodriguez and Daniel Sanchez were
5 reading the paperwork, Daniel Sanchez stated, "It's
6 done."

7 Q. And in what context was that made in terms
8 of reviewing the paperwork?

9 A. That the decision had been made because
10 they had received the paperwork.

11 Q. And what did Daniel Sanchez want Timothy
12 Martinez to do?

13 A. He wanted Timothy Martinez to be involved
14 in some fashion in the murder.

15 Q. I also want to ask you about a statement
16 from Carlos Herrera to Mr. Rodriguez about the Molina
17 murder?

18 A. When Carlos Herrera gave Mario Rodriguez
19 the paperwork, Daniel Sanchez wanted to verify it,
20 and Carlos Herrera told him to, "Get that shit
21 fucking done."

22 Q. And had Mr. Rodriguez volunteered to
23 participate in the murder?

24 A. He had. But Daniel Sanchez told him not
25 to.

1 Q. And what was said from Mr. Sanchez about
2 covering the cameras?

3 A. He stated he did not want the cameras
4 covered because the murder would be in a blind spot.

5 Q. And what did you take that to mean when the
6 term "blind spot" was used?

7 A. That the cameras would not have an angle on
8 where the murder occurred.

9 Q. Can you tell the Court about a statement
10 made by Rudy Perez when Mr. Sanchez was in his cell?

11 A. When Mario Rodriguez went to Rudy Perez'
12 cell, Daniel Sanchez pointed at a piece of Perez'
13 walker, and Perez stated he was "down for whatever,
14 as long as it was not me."

15 Q. And what did Mr. Rodriguez say about a
16 conversation he had with Timothy Martinez, once Mr.
17 Martinez returned from the wheelchair program?

18 A. Rodriguez told Timothy Martinez to go get
19 high because the paperwork had arrived.

20 Q. What was the purpose of getting high, do
21 you remember?

22 A. I don't.

23 Q. And was there a clarification about who the
24 paperwork was for?

25 A. There was. Timothy Martinez initially

1 volunteered to do the hit, because he thought the
2 paperwork on Jerry Montoya had arrived. But
3 Rodriguez clarified that the paperwork on Javier
4 Molina had arrived instead.

5 Q. And what statements did Timothy Martinez
6 make about Javier Molina's fiero or shank?

7 A. Martinez stated that Molina had given him
8 his shank prior to count, and Martinez had placed
9 that shank inside of a bag of canteen. Martinez
10 later gave that shank to Rodriguez.

11 Q. And what directions did Mr. Rodriguez give
12 to Mr. Martinez about Javier Molina?

13 A. Rodriguez told Timothy Martinez that he,
14 Rodriguez, would handle it, but later told Martinez
15 to choke out Molina.

16 Q. What was the statement about Jerry Montoya
17 being approached regarding the Molina murder and the
18 paperwork?

19 A. Do you mean Montoya?

20 Q. Yes. What was Montoya's response regarding
21 the Molina murder initially?

22 MS. JACKS: Your Honor, I'm going to
23 object, because I'm not clear who the declarant is.
24 The way the questions are being asked, I can't
25 ascertain what statements are being elicited.

1 THE COURT: Well, I'll let you explore that
2 on cross. Let me let Mr. Castellano put on his
3 evidence the way he wants to proceed. And we'll deal
4 with that on cross. Overruled.

5 Q. Can you tell the Court whether Mr.
6 Rodriguez confirmed to Mr. Montoya that he had seen
7 the paperwork on Javier Molina?

8 A. He did.

9 Q. What was Mr. Montoya's response?

10 MS. JACKS: Same objection.

11 THE COURT: Overruled.

12 Q. Once Mr. Montoya learned that the paperwork
13 was there, what was his response?

14 A. He said he would do it.

15 Q. What did Mr. Sanchez tell Mr. Rodriguez
16 about leaving any dope behind in Javier Molina's
17 cell?

18 A. Mr. Sanchez told Rodriguez to not leave any
19 dope behind in Molina's cell and that they could go
20 halfers on it later.

21 Q. Once they were inside Javier Molina's cell,
22 what did Mr. Rodriguez tell Timothy Martinez about
23 exiting the cell?

24 A. Rodriguez told Martinez to exit the cell.

25 Q. What happened next?

1 A. Jerry Armenta and Jerry Montoya entered and
2 began stabbing Molina. Rodriguez instructed both
3 Armenta and Montoya to not let Molina out of the
4 cell. Rodriguez overheard Montoya tell Molina to
5 stay back, and Molina did not.

6 Q. And when Mr. Molina made a statement that
7 he was done, saying, Come on, I'm done now, what was
8 Rodriguez' response to that?

9 A. He told Molina that he was no carnal.

10 Q. When it came to Mr. Herrera wanting to pass
11 the paperwork to green pod, what was Mr. Rodriguez'
12 response to him?

13 A. Rodriguez told Herrera not to pass the
14 paperwork to green pod because the individuals in
15 green pod had been protecting Molina.

16 MR. CASTELLANO: May I approach the
17 witness, Your Honor?

18 THE COURT: You may.

19 Q. Okay. Ms. Stemo, I'm handing you what's
20 been marked for identification as Government's
21 Exhibit 16. Do you recognize that exhibit?

22 A. I do.

23 Q. And what is it?

24 A. It's a transcript between -- or transcript
25 of a recording of conversations between Rudy Perez

1 and the confidential human source.

2 Q. And in what month was that recording taken?

3 A. February.

4 Q. Of what year?

5 A. 2016.

6 Q. And have you had an opportunity to review
7 that transcript beforehand?

8 A. I have.

9 Q. And to the best of your understanding, is
10 it a fair transcript of the recording?

11 A. Can you repeat that?

12 Q. To the best of your knowledge, does the
13 transcript accurately reflect the contents of the
14 recording?

15 A. Yes.

16 Q. And does this transcript contain admissions
17 by Rudy Perez?

18 A. It does.

19 Q. And are you aware whether or not he names
20 other people involved in the Molina murder
21 conspiracy?

22 A. I don't think he does in this transcript.

23 Q. Let me draw your attention to the second
24 page toward the bottom of the transcript, and ask you
25 if anyone else's name is mentioned?

1 A. The source mentions "Dan Dan."

2 Q. And who do you understand "Dan Dan" to be?

3 A. Daniel Sanchez.

4 MR. CASTELLANO: Your Honor, I move the
5 admission of Government's Exhibit 16.

6 THE COURT: Let me ask you, yesterday when
7 you did all those plea agreements, I think we went 1
8 through 14.

9 MR. CASTELLANO: I was mistaken, Your
10 Honor. They were 1 through 15, and I have marked
11 them accordingly.

12 THE COURT: All right. So I understand the
13 defendants' objection, but I'll admit Government's
14 Exhibit 15.

15 And any objection to 16 now?

16 MS. JACKS: Your Honor, we --

17 MR. ADAMS: I'd like to see it.

18 MS. JACKS: We haven't had a chance to look
19 at it.

20 THE COURT: All right. Do you have a copy
21 for the defendants?

22 MR. CASTELLANO: Sure. We can put it on
23 the visualizer, Your Honor.

24 THE COURT: All right.

25 MS. JACKS: Well, I'd like a chance to

1 review it before I make arguments about it.

2 MR. CASTELLANO: This is in discovery, Your
3 Honor. It's beginning at Bates stamp 20529 of the
4 DeLeon discovery.

5 THE COURT: All right. Any objection?

6 MR. VILLA: Your Honor, I have to get to
7 the microphone.

8 MR. ADAMS: I'll pass that over. Judge,
9 could I ask you to please ask the witness to speak
10 into the microphone a little more. We have a hard
11 time hearing her.

12 THE COURT: All right. If you'll speak up.
13 I know you're speaking into the microphone. So if
14 you'll just speak a little louder.

15 THE WITNESS: Yes.

16 MR. VILLA: And Your Honor, Exhibit 16 is a
17 transcript of a statement that is subject to a motion
18 to suppress that's set to be heard by this Court week
19 after next. And the basis is that the statement was
20 made involuntarily. And I haven't -- can't say I
21 have a cite at my fingertips whether that applies in
22 a James hearing. But I guess I would ask the Court
23 to perhaps consider reserving ruling on the James
24 hearing until it makes a decision about the
25 voluntariness of the statement. Because if it is

1 involuntary, it's in violation of due process, and I
2 think the Court should not, then, be able to use it
3 in making any determinations with respect to James.

4 THE COURT: All right. Well, let me do
5 this, if this works for everybody: Why don't I admit
6 it for purposes of this hearing, so we can take the
7 testimony while we've got the witness here. And then
8 in our arguments we'll -- I'll ask the Government and
9 I'll ask the defense lawyers to also point out to me
10 if I'm about to rely on in any way this testimony,
11 and I'll try then to tie the ruling I'm going to make
12 on the other, and then research this issue. Because
13 I'm not sure I know the answer to it either.

14 MR. VILLA: And I'll take a look and come
15 up with some kind of brief for you, too, as well.

16 THE COURT: All right. So let's just flag
17 it. But I'll admit it for purposes of the hearing,
18 and not yet make a determination whether I'll rely on
19 it. All right. Does that work for everybody?

20 MR. CASTELLANO: Yes, Your Honor. And I
21 agree with the Court's approach, but I need to get
22 the statements before the Court.

23 THE COURT: All right. Mr. Castellano.

24 MR. CASTELLANO: May I approach the
25 witness?

1 THE COURT: You may.

2 Q. Just for ease of the testimony, Ms. Stemo,
3 I'll put it on the visualizer so everyone can see it.
4 Do you see here the discussion about the shanks
5 coming from --

6 MR. DAVIS: Judge, we're not on back here.

7 MR. CASTELLANO: The TV screen isn't on,
8 Your Honor.

9 MS. JACKS: Is this Exhibit 16 for the
10 record?

11 MR. CASTELLANO: This is Exhibit 16.

12 MS. JACKS: What Bates number?

13 MR. CASTELLANO: 20531. It's coming on the
14 screen back there, Your Honor, but there is menu
15 screen.

16 THE COURT: All right. Let's go ahead and
17 proceed. I think we know what the document is and
18 we'll try to get it up as soon as we can.

19 Mr. Castellano.

20 MR. CASTELLANO: Thank you, Your Honor.

21 Q. Do you see on here, Agent Stemo, that there
22 is a discussion of the shanks coming from Mr. Perez'
23 walker?

24 A. I do.

25 Q. And at that point, what does Mr. Perez

1 acknowledge that "Dan Dan," or Daniel Sanchez was
2 running the pod at that time?

3 A. He does.

4 Q. And what does he say about them approaching
5 him about the shanks from his walker?

6 A. They say that they approached him; that
7 they needed -- that they needed it taken care of, and
8 they needed squina from Rudy Perez, and they didn't
9 need him to do anything aside from that.

10 Q. What was Mr. Perez' response about his
11 willingness to give up the parts of his walker to
12 make shanks?

13 A. He essentially said he was willing, as long
14 as it was a justified moved. He needed to something
15 for the familia.

16 MR. CASTELLANO: Your Honor, I won't go
17 anymore, the statement is already in evidence, the
18 Court can look at the rest of it. But I think that's
19 a summary of the statement.

20 May I have a moment, Your Honor?

21 THE COURT: You may.

22 MR. CASTELLANO: Thank you, Your Honor. I
23 pass the witness.

24 THE COURT: All right. Thank you, Mr.
25 Castellano.

1 Defendants have cross-examination of Ms.
2 Stemo?

3 MR. JEWKES: Yes, Your Honor.

4 THE COURT: Mr. Jewkes.

5 MR. JEWKES: May it please the Court.

6 EXAMINATION

7 BY MR. JEWKES:

8 Q. Good morning, Agent Stemo.

9 A. Good morning.

10 Q. Okay. Regarding your interview of Jerry
11 Armenta, can you tell us when your first interview
12 with him took place?

13 A. The report that I was reading off of I was
14 not present at that interview.

15 Q. Okay. So you were referring to another
16 agent's 302; is that correct?

17 A. It's a 1023, it's a source reporting
18 document.

19 Q. All right. When were you first assigned to
20 the investigation of this case?

21 A. October 2016.

22 Q. All right. And you were aware that Jerry
23 Armenta had given numerous versions of what happened,
24 were you not?

25 A. I'm aware of that, yes.

1 Q. And have you actually talked to him
2 yourself?

3 A. Numerous occasions.

4 Q. All right. You told us that Mr. Armenta
5 said that Daniel Sanchez told Armenta he had to carry
6 out the hit?

7 A. He did.

8 Q. And did Mr. Armenta tell you anything about
9 having been high on drugs at that time?

10 A. He did not.

11 Q. You're aware that he made prior statements
12 to that effect, are you not?

13 A. I haven't read them.

14 Q. So you're not aware of that?

15 A. No, I'm not.

16 Q. When Mr. Armenta told you that Daniel
17 Sanchez said that he, Jerry Armenta, needed to put
18 the work in, did you ask him what he interpreted that
19 to mean?

20 A. I was not at that interview.

21 Q. You were not. This is something you're
22 relating to us that came from another interview that
23 you weren't involved in; is that correct?

24 A. Correct.

25 Q. Now, you spoke somewhat briefly about an

1 interview of Mario Rodriguez?

2 A. Correct.

3 Q. How many times have you interviewed him?

4 A. I believe three times.

5 Q. Can you tell us approximately when the
6 first interview was?

7 A. In October 2017.

8 Q. Just a few months ago?

9 A. Correct.

10 Q. Where did that take place?

11 A. Here in Las Cruces.

12 Q. Did you ever tell him that he could gain
13 benefits by talking to you?

14 A. I did not, no.

15 Q. Did you hear any other person in law
16 enforcement do that?

17 A. No.

18 Q. Did he ever ask for any benefits?

19 A. No.

20 Q. Did he tell you why he wanted to cooperate
21 with the United States Government?

22 A. He did.

23 Q. He did?

24 A. He did.

25 Q. What did he say?

1 A. He was tired of the gang lifestyle.

2 Q. I'm sorry, ma'am, I didn't --

3 A. He was tired of the gang lifestyle.

4 Q. Tired of the lifestyle?

5 A. Correct.

6 Q. Wanted to change his life?

7 A. He did.

8 Q. But didn't say anything about wanting
9 benefits?

10 A. Not to me, no.

11 Q. Do you know whether he asked any other
12 agent?

13 A. I don't.

14 Q. Okay. Mr. Rodriguez, according to your
15 testimony on direct examination, page 5 of your
16 302 -- I'll give you a moment if you need to look at
17 that.

18 A. You can go ahead.

19 Q. All right. Daniel Sanchez read the
20 paperwork and said, "It's done"?

21 A. Correct.

22 Q. What did you interpret that to mean?

23 A. That the decision had been made on Javier
24 Molina.

25 Q. Did Mr. Rodriguez tell you that he had told

1 anyone else about that before he spoke to you?

2 A. What do you mean?

3 Q. About this business about Mr. Sanchez
4 reading the paperwork and said, "It's done"?

5 A. No, he didn't mention speaking to anybody
6 else about that.

7 Q. There has been a lot of discussion about
8 paperwork. Do you know where that paperwork is?

9 A. I don't.

10 Q. As part of the investigation have you
11 attempted to locate that so-called paperwork that
12 came from PNM down to SNM?

13 A. I have not personally.

14 Q. Do you know if anyone in the FBI has?

15 A. I believe so.

16 Q. And who would that be?

17 A. Task Force Officer Mark Myers.

18 Q. Mark Myers. Have you had any conversations
19 with Mark Myers about the paperwork?

20 A. No.

21 Q. So other than what's been said, we don't
22 really know if that paperwork ever existed. Would
23 you agree with that?

24 A. I would not.

25 Q. You would not agree with that?

1 A. No. Just because I haven't seen it,
2 doesn't mean it doesn't exist.

3 Q. And you're relying strictly upon what
4 you've been told by cooperators; correct?

5 A. And other law enforcement officers.

6 Q. With regard to what you were told, that
7 Carlos -- and you were told this, I believe, by Mario
8 Rodriguez -- that Carlos Herrera read the paperwork;
9 is that correct?

10 A. Correct.

11 Q. Where did that take place?

12 A. At Southern.

13 Q. The reading.

14 A. The reading of the paperwork?

15 Q. Um-hum.

16 A. At Southern.

17 Q. And did Mr. Rodriguez tell you what Carlos
18 Herrera did with the paperwork after he read it?

19 A. No.

20 Q. In other words, you don't know if it was
21 conveyed to someone else?

22 A. I do not.

23 Q. Agent Stemo, there has been some testimony,
24 partly from you, that my client, Mr. Sanchez, did not
25 want the cameras covered. Do you recall that?

1 A. I do.

2 Q. And what was the reason for that that you
3 were told?

4 A. That the location for the murder was in a,
5 quote, "blind spot," and therefore the cameras did
6 not need to be covered.

7 Q. So based upon what you were told, there was
8 a belief that it would be done in a certain location
9 that could not be captured by video; is that correct?

10 A. Correct.

11 Q. But, in fact, the assault -- the homicide
12 was captured on video?

13 A. It was.

14 Q. Partially.

15 A. Yes.

16 Q. So how do you account for that, that there
17 would be a belief that it would be done where the
18 cameras couldn't capture?

19 A. I could speculate. Do you want me to do
20 that?

21 Q. Not particularly, no. Thank you.

22 Agent Stemo, I know you've been asked this
23 question before as to why someone wanted Tim Martinez
24 to get high, at least that's what was told to you by
25 Mario Rodriguez; correct?

1 A. Um-hum.

2 Q. Did you ask Mr. Martinez why someone would
3 want him to get high, what was the purpose for that?

4 A. I believe Rodriguez wanted Martinez to get
5 high because Martinez was close to Javier Molina.

6 Q. You aware that Daniel Sanchez and Javier
7 Molina were roommates for over a year there at SNM?

8 A. I was not.

9 Q. Are you aware that there was never any
10 problems between them, I mean that were reported?

11 A. Reported to whom?

12 Q. Disciplinary actions. In other words,
13 there was no disciplinary actions between Daniel
14 Sanchez and --

15 A. No, I was not aware of that.

16 Q. Regarding your testimony and the shank,
17 Timothy Martinez, whom you interviewed, said that
18 Javier Molina gave him the shank -- a shank -- the
19 day of the homicide; is that correct?

20 A. Correct.

21 Q. Did that seem somewhat strange to you as an
22 investigator?

23 A. It did.

24 Q. And did it cause you to be somewhat
25 suspicious as to whether or not that was true?

1 A. No. Because we asked Timothy Martinez why
2 he would do that, and he was able to explain that.

3 Q. And what did Mr. Martinez explain?

4 A. Martinez indicated that he and Javier
5 Molina were really close and trusted each other, and
6 therefore, Molina was okay with giving his shank to
7 Martinez for safekeeping.

8 Q. Okay. So assuming that's true, Javier
9 Molina gave a shank to Timothy Martinez for
10 safekeeping, to keep it safe from what? Did you
11 inquire as to why, any further than that?

12 A. Javier Molina was going to take a shower,
13 and he did not want the shank in there with him.

14 Q. Have you interviewed any other cooperators
15 or witnesses that corroborated the fact that Javier
16 Molina gave a shank to Timothy Martinez?

17 A. That they personally saw Molina give the
18 shank over?

19 Q. All right. Let's start with that.

20 A. No.

21 Q. That knew about it?

22 A. Yes.

23 Q. Who else told you that story?

24 A. Mario Rodriguez.

25 Q. Mario Rodriguez confirmed what Timothy

1 Martinez had told you?

2 A. Yes.

3 Q. And were you aware that Mario Rodriguez and
4 Timothy Martinez had been communicating with each
5 other?

6 A. At which point?

7 Q. Since they decided to cooperate.

8 A. Yes.

9 Q. You're aware that they have been
10 communicating with each other since they cooperated;
11 correct?

12 A. Yes.

13 Q. And how do they communicate?

14 A. I believe they do it through their wives or
15 girlfriends.

16 Q. And have you monitored some of those?

17 A. I have not.

18 Q. Do you have reason to believe that they are
19 comparing their stories, shoring each other up?

20 A. I do not.

21 Q. You do not?

22 A. No.

23 Q. What do you think they talk about?

24 A. I'm not sure. I don't monitor those calls.

25 MR. CASTELLANO: Objection, Your Honor.

1 Moving away from the statements themselves again.

2 THE COURT: It sounds like we're moving
3 away. Do you have a way to tie it a little closer?

4 MR. JEWKES: We'll move on, Your Honor.
5 If I may have just a moment, Your Honor?

6 THE COURT: You may.

7 Q. Agent Stemo, Government's Exhibit 16, the
8 transcript of a conversation allegedly between Mr.
9 Perez and a confidential human source, you know who
10 that confidential human source is; correct?

11 A. I do.

12 Q. And I believe his name would be Billy
13 Cordova, would it not?

14 A. Correct.

15 Q. And how long has Mr. Cordova been
16 cooperating in this investigation?

17 A. I'm not sure exactly.

18 Q. Has he been cooperating since you joined
19 the investigation?

20 A. I believe so.

21 Q. And Mr. Cordova has worn a wire into the
22 penitentiary system, has he not?

23 A. Yes.

24 Q. And it was given to him by the FBI?

25 A. Yes.

1 Q. And Mr. Cordova is a paid informant, is he
2 not?

3 MR. CASTELLANO: Same objection regarding
4 statements, Your Honor.

5 THE COURT: Sustained.

6 MR. JEWKES: Pass the witness.

7 THE COURT: Thank you, Mr. Jewkes.

8 Other defense counsel that wish to ask --
9 cross-examine Ms. Stemo? Mr. Adams?

10 EXAMINATION

11 BY MR. ADAMS:

12 Q. So you referenced one statement related to
13 the Marcantel conspiracy?

14 A. I did.

15 Q. From Jerry Armenta?

16 A. Yes.

17 Q. And that was: Robert Martinez told Jerry
18 Armenta that Robert Martinez and Roy Paul Martinez
19 put a hit order out on Marcantel?

20 A. Correct.

21 Q. All right. When was this statement
22 allegedly made?

23 A. The statement from Robert Martinez to Jerry
24 Armenta?

25 Q. Correct.

1 A. I don't know.

2 Q. Where was the statement allegedly made?

3 A. PNM.

4 Q. When was Mr. Armenta at PNM?

5 A. I don't know.

6 Q. When was Mr. Robert Martinez at PNM?

7 A. I don't know.

8 Q. Who else was present when this alleged
9 statement was made?

10 A. I don't know.

11 Q. Where were they at PNM when this statement
12 was allegedly made?

13 A. X pod.

14 Q. And as you were testifying, you don't know
15 if that statement was made prior to the arrest in
16 this case, and the passing of the gun at issue, in
17 November and December of 2015, or after?

18 A. I'm not sure.

19 Q. And you don't know if it was after the
20 arrests were made in this case?

21 A. I believe it was before.

22 Q. But you don't know when?

23 A. Correct.

24 Q. So you don't know for sure if it was before
25 or after?

1 A. Correct.

2 MR. ADAMS: Thank you.

3 THE COURT: Thank you, Mr. Adams.

4 Ms. Sirignano, I think, wants to give you
5 something, I think, Mr. Adams.

6 MR. ADAMS: Thank you, Your Honor. I just
7 had a new thought to follow-up on.

8 Q. Do you have any other corroboration of Mr.
9 Armenta's assertion that Mr. Robert Martinez made
10 this statement to him at PNM?

11 A. I don't.

12 MR. ADAMS: Thank you. Do I have any other
13 thoughts? No. Thank you.

14 THE COURT: Thank you, Mr. Adams. Mr.
15 Lowry, do you have cross-examination of Ms. Stemo?

16 MR. LOWRY: I may, Your Honor.

17 THE COURT: Mr. Lowry.

18 MR. LOWRY: Briefly.

19 EXAMINATION

20 BY MR. LOWRY:

21 Q. Good morning, Ms. Stemo.

22 A. Good morning.

23 Q. I believe you said you'd interviewed Jerry
24 Armenta?

25 A. I've been at interviews with him, yes.

1 Q. And if I understand things correctly, Mr.
2 Armenta was housed in the blue pod where the Molina
3 event happened?

4 A. I don't know the coloring scheme, but he
5 was in the pod.

6 Q. And actually you can see Mr. Armenta on the
7 video participating in the murder of Mr. Molina?

8 A. Yes.

9 Q. And I take it as part of that interview --
10 how many interviews were you present with Mr.
11 Armenta?

12 A. Approximately three.

13 Q. And I would assume, as your role as FBI
14 agent, you want to get all of the information you can
15 from Mr. Armenta to understand exactly what happened?

16 A. I do my best.

17 Q. But I would assume -- well, you do your
18 best to get all the information you can from Mr.
19 Armenta?

20 A. Yes.

21 Q. And you're trained to get all the
22 information you can from Mr. Armenta?

23 A. Yes.

24 Q. And to make sure you get all of that
25 information from Mr. Armenta, you visit with him

1 repeatedly?

2 A. Yes.

3 Q. In any of your visits with Mr. Armenta did
4 he ever tell you or the prosecution team that he
5 heard Mr. Sanchez say, "Fuck, yeah"?

6 A. Not at any of the interviews I was at.

7 Q. And again, you wanted to learn everything
8 you could about what happened in the pod where that
9 murder took place?

10 A. Yes.

11 Q. I want to follow-up with the comment that
12 Mr. Adams was asking you about, about the Gregg
13 Marcantel conspiracy, alleged conspiracy. If I
14 understood your statement correctly, or your
15 testimony, that Tim Martinez reported that Roy
16 Martinez had mentioned something about the Gregg
17 Marcantel hit?

18 A. No, it was Robert Martinez.

19 Q. Okay. And Robert Martinez said that to
20 who?

21 A. Jerry Armenta.

22 Q. And according to Mr. Armenta, Roy Martinez
23 ordered the hit on Gregg Marcantel?

24 A. Armenta was told by Robert Martinez that --
25 go ahead.

1 Q. No, go ahead. Too many Martinezes. I
2 can't keep them all straight.

3 A. Timothy Martinez was not involved in this
4 conversation. Robert Martinez told Jerry Armenta
5 that he, Robert, and Roy Martinez had put out hit
6 order on Marcantel and Santistevan.

7 Q. That those two had?

8 A. Yes.

9 Q. In all of the interviews Mr. Armenta never
10 said anything about Mr. Baca putting out the hit?

11 A. Not that I'm aware of.

12 MR. LOWRY: No further questions, Your
13 Honor.

14 THE COURT: Thank you, Mr. Lowry.

15 Any other defense lawyers wish to
16 cross-examine Ms. Stemo. Ms. Bhalla?

17 MS. BHALLA: Yes, Your Honor. Thank you.

18 EXAMINATION

19 BY MS. BHALLA:

20 Q. Good morning, Agent Stemo.

21 A. Good morning.

22 Q. Is it Stemo? Did I say it right?

23 A. Stemo.

24 Q. Stemo. Okay, thank you.

25 You mentioned earlier that you had had some

1 conversations with Mario Rodriguez concerning
2 paperwork that -- when you mentioned Carlos Herrera;
3 is that correct?

4 A. Correct.

5 Q. And when did Mr. Rodriguez provide you with
6 that information?

7 A. In October of 2017.

8 Q. And did he say where he was when he had
9 that conversation that involved Carlos Herrera?

10 A. At Southern.

11 Q. Where specifically in Southern?

12 A. He did not mention where.

13 Q. Okay. So you're not aware of where exactly
14 the conversation took place?

15 A. No.

16 Q. Did he say when the conversation took
17 place?

18 A. I believe so, if I can check my report.

19 Q. Yes, please.

20 A. He didn't tell me specifically, and I
21 didn't write it down specifically in my report. But
22 I believe it happened on the morning of the murder.

23 Q. Okay. And you're reviewing that report now
24 to refresh your recollection?

25 A. Yes.

1 Q. Do you know whether or not that report has
2 been provided in discovery yet?

3 A. I don't think it has.

4 Q. Okay.

5 MS. BHALLA: Your Honor, I would like the
6 opportunity to review the report to see what
7 information it contains. I think that would be
8 helpful for our cross-examination.

9 THE COURT: Why don't we do this: Why
10 don't you discuss that with the Government. We're
11 probably right up against the break here. So why
12 don't you discuss it during the break, and we can
13 then discuss it afterwards.

14 MS. BHALLA: Thank you, Your Honor.

15 THE COURT: If you don't reach a resolution
16 there, can't resolve it.

17 All right. Let's be in recess for about 15
18 minutes and we'll come back and continue the James
19 hearing.

20 (The Court stood in recess.)

21 THE COURT: All right. Let's go back on
22 the record and see if we can keep things moving on
23 pace. I think Ms. Harbour-Valdez has a sentencing,
24 so she's left. But we still have Mr. Burke. And I
25 think Mr. Granberg has had to leave, but we still

1 have Mr. Mondragon. So I think we're okay.

2 All right. I'll turn it over to you, Ms.

3 Bhalla.

4 MR. CASTELLANO: Your Honor, I just want to
5 make sure Agent Stemo got her reports back. They
6 were left out during the break for defense counsel to
7 review.

8 THE COURT: Did you get them back?

9 THE WITNESS: Yes, sir.

10 THE COURT: Did you getting everything you
11 needed to continue your cross-examination?

12 MS. BHALLA: I did, Your Honor. Thank you.

13 THE COURT: All right. Ms. Bhalla.

14 I'll remind you, Ms. Stemo, that you're
15 still under oath.

16 THE WITNESS: Yes, Your Honor.

17 THE COURT: All right. Ms. Stemo. Ms.
18 Bhalla.

19 MS. BHALLA: Thank you, Your Honor.

20 BY MS. BHALLA:

21 Q. I did have a chance to review your report
22 and I wanted to ask you a question about it. Your
23 report indicates a conversation that took place
24 between Mario Rodriguez and Mr. Sanchez about the
25 paperwork. And the conversation went along the lines

1 of something that Sanchez indicated, well, "It's
2 done," and that they were reviewing the paperwork
3 together. Do you recall that conversation?

4 A. I do.

5 Q. Who relayed that conversation to the
6 Government?

7 A. Mario Rodriguez.

8 Q. Mario Rodriguez did. Okay.

9 And was it your understanding of that
10 conversation that Mario Rodriguez and Mr. Sanchez
11 were reviewing the paperwork together to make a
12 determination about what to do next?

13 A. Yes.

14 Q. And there is no indication that Mr. Herrera
15 was present for that conversation in your report, is
16 there?

17 A. No.

18 Q. Okay. The statement that Mr. Rodriguez
19 made to you regarding Carlos Herrera, I just want to
20 draw our attention back to that. Who else was
21 present during that conversation, do you know?

22 A. I don't.

23 Q. Okay. So you don't know exactly where the
24 conversation took place, and you don't know how many
25 people were present for that conversation?

1 A. Correct.

2 Q. And is it your understanding that Mr.
3 Rodriguez told -- at least told you -- that he
4 instructed Mr. Herrera not to send the paperwork to
5 the green pod; is that correct?

6 A. Yes.

7 Q. Okay. Are you aware of the statements that
8 Mr. Urquizo has given in this case? Have you
9 reviewed any of those statements?

10 A. Yes.

11 Q. Okay. And are you aware of a statement
12 where Mr. Urquizo indicated that when he showed the
13 paperwork to Mr. Herrera, Mr. Herrera said, "Damn,
14 that's it?"

15 A. I don't remember verbatim what it says, but
16 that sounds similar.

17 Q. Okay. So you reviewed that statement from
18 Mr. Urquizo at some point?

19 A. Yes.

20 Q. Are you aware of whether or not any 302s
21 have been completed on Mr. Rodriguez?

22 A. Yes.

23 Q. Okay. Do you know how many?

24 A. I would approximate three.

25 Q. And do you know the dates of those,

1 roughly?

2 A. Sometime in October and November, 2017.

3 Q. So all of the 302s on Mr. Rodriguez were
4 done in October and the November of this year?

5 A. Correct.

6 Q. Okay.

7 MS. BHALLA: Can I have just a moment, Your
8 Honor.

9 THE COURT: You may.

10 MS. BHALLA: I have nothing further.

11 THE COURT: Thank you, Ms. Bhalla.

12 Mr. Villa?

13 MR. VILLA: Thank you, Your Honor.

14 EXAMINATION

15 BY MR. VILLA:

16 Q. Good morning, Agent Stemo.

17 A. Good morning.

18 Q. Let me talk briefly to you about Jerry
19 Armenta. If I understand it correctly, you weren't
20 present for the debriefs or statements that Mr.
21 Armenta gave; correct?

22 A. Correct.

23 Q. But you have reviewed them?

24 A. Some of them, yes.

25 Q. And you've had conversations with Mr.

1 Armenta?

2 A. Yes.

3 Q. And it's true that in at least the
4 recordings, or the formal debriefs interviews that
5 have been disclosed by Mr. Armenta, he never mentions
6 the source of the shanks used in the murder; correct?

7 A. I believe so.

8 Q. So he never says "Dan Dan" told me it came
9 from Rudy Perez' walker?

10 A. I believe so.

11 Q. He never says Mario Rodriguez said the
12 shanks came from Rudy Perez' walker?

13 A. I don't think he does.

14 Q. So let's talk about Mario Rodriguez. You
15 testified that he said Daniel -- and sometimes I say
16 "Dan Dan." I apologize. That's Daniel Sanchez,
17 right?

18 A. Correct.

19 Q. So if I say "Dan Dan," you know who I'm
20 talking about?

21 A. I do.

22 Q. You said that Mario Rodriguez told Mr.
23 Sanchez that he wanted to be involved or he wanted to
24 volunteer for the Javier Molina murder; correct?

25 A. Correct.

1 Q. But Daniel Sanchez told him not to?

2 A. Correct.

3 Q. Do you know why?

4 A. No, I don't.

5 Q. Did you ask Mario Rodriguez why?

6 A. No.

7 Q. Did he ever say why?

8 A. I believe Daniel Sanchez did not want Mario
9 Rodriguez involved because he wanted Timothy Martinez
10 involved. There had been an incident in which Daniel
11 Sanchez had been complaining about Javier Molina and
12 Timothy Martinez having dope and food and having
13 meals without inviting others. And Daniel Sanchez
14 was upset about that. And he felt that if Timothy
15 Martinez was instructed to go, that Timothy Martinez
16 would refuse, and Daniel Sanchez could then have a
17 reason to hit Timothy Martinez.

18 Q. So if Timothy Martinez, as you understood
19 it, refused the order from Daniel Sanchez, Timothy
20 Martinez could then be hit?

21 A. Correct.

22 Q. Killed?

23 A. Yes.

24 Q. Or assaulted in some way?

25 A. Yes.

1 Q. And you understood from Mario Rodriguez
2 that "Dan Dan" thought that that's what was going to
3 happen, so now he could hit Timothy Martinez?

4 A. Correct.

5 Q. Because he didn't like him or was upset
6 with him over this dope issue?

7 A. Yes.

8 Q. And on the flipside, if Timothy Martinez
9 did do what he was supposed to do, he might get in
10 trouble, right?

11 A. Who is "he"?

12 Q. Timothy Martinez.

13 A. Correct.

14 Q. So "Dan Dan" probably also understood that
15 sending Martinez to do this put him in jeopardy of
16 getting in trouble for committing a murder?

17 A. I don't want to speculate as to what Mr.
18 Sanchez understood would happen.

19 Q. Okay. Well, let's talk about it with Jerry
20 Armenta. Did you understand there to be a reason why
21 Jerry Armenta was asked to do the hit on Javier
22 Molina in your conversations with Jerry Armenta?

23 A. I believe he had to put in work for the
24 SNM.

25 Q. Wasn't it also true that there was issues

1 between Daniel Sanchez and Jerry Armenta?

2 A. Not that I know of.

3 Q. No beef or reason for "Dan Dan" to want to
4 hit Jerry Armenta?

5 A. Not that I know of.

6 Q. Okay. What about Jerry Montoya?

7 A. If there was a personal issue between
8 Daniel Sanchez and Jerry Montoya?

9 Q. Yes.

10 A. I'm not aware of any.

11 Q. Were you aware that -- from Lupe Urquizo --
12 that when he arrived at Southern -- there was some
13 testimony yesterday -- I know you weren't here -- but
14 there was an expectation that there was going to be a
15 hit on Jerry Montoya?

16 A. Yes.

17 Q. You knew about that?

18 A. Yes.

19 Q. Do you know if Daniel Sanchez was aware of
20 this potential hit going to be put on Jerry Montoya?

21 A. I don't know.

22 Q. Did Mario Rodriguez ever tell you that that
23 was the reason Daniel Sanchez asked Jerry Montoya to
24 commit the hit on Javier Molina?

25 A. I don't think he did.

1 Q. Anybody else?

2 A. Not that I know of.

3 Q. But Mario Rodriguez was clearly intimately
4 involved in executing this hit, wasn't he?

5 A. Yes.

6 Q. So even though Daniel Sanchez told him not
7 to do the hit himself, he still had Mario Rodriguez
8 essentially orchestrate everything that was going to
9 lead up to this hit; true?

10 A. Yes.

11 Q. And Mario Rodriguez, although they thought
12 there was a blind spot, is seen on video going into
13 Javier Molina's room with Timothy Martinez; correct?

14 A. Yes.

15 Q. And minutes or seconds later, Jerry Armenta
16 and Jerry Montoya go in and start to stab Javier
17 Molina?

18 A. Correct.

19 Q. And Mario Rodriguez is then seen collecting
20 one of the shanks, or what is believed to be one of
21 the shanks used, and hiding it in the shower drain?

22 MR. CASTELLANO: Objection, Your Honor.

23 Moving away from the statements.

24 THE COURT: I think we are. Sustained.

25 Q. So let me ask you about the statement that

1 you testified Mario Rodriguez told you Rudy Perez
2 made. You said that Mario Rodriguez went into Mr.
3 Perez' room; correct?

4 A. Correct.

5 Q. This is the cell in blue pod?

6 A. I'm not sure of the color scheme.

7 Q. Okay. The cell where, or the pod where Mr.
8 Molina was killed?

9 A. Correct.

10 Q. And did Mario Rodriguez tell you the
11 purpose for which he went into Rudy Perez' room?

12 A. Mario Rodriguez stated that Daniel Sanchez
13 called him over to Perez' cell. And Daniel Sanchez
14 proceeded to point out a piece on Rudy Perez' walker.
15 And that's when Rudy Perez made the statement that he
16 was down for whatever, as long as it wasn't him.

17 Q. Now, let me back this up a little bit. Did
18 Mario Rodriguez tell you on what day this occurred?

19 A. Not specifically.

20 Q. Did he tell you any sort of timeframe in
21 relationship to when the murders occurred?

22 A. No. The way I conducted the interview was,
23 it was kind of chronological from the moment he got
24 the paperwork to the moment the homicide occurred.

25 Q. Well, when did you understand Mario

1 Rodriguez to have obtained the paperwork?

2 A. Earlier that morning.

3 Q. The morning of the homicide?

4 A. Correct.

5 Q. Was there any doubt from Mario Rodriguez
6 that he got it in the morning?

7 A. No.

8 Q. He was pretty clear on when he got it?

9 A. He was.

10 Q. Did he tell you whether he got the -- or
11 went into Mr. Perez' room, before or after that time?

12 A. After he received the paperwork?

13 Q. Yes.

14 A. He received it after he received the
15 paperwork -- or he went in, sorry.

16 Q. So he went to Mr. Perez' room sometime
17 after he got the paperwork?

18 A. Correct.

19 Q. Do you know if it was still morning?
20 Afternoon?

21 A. I don't. All I know is he went into Perez'
22 cell, retrieved the metal before count.

23 Q. Do you know if there was any conversation
24 by Mr. Perez about how that removing a piece of metal
25 might affect the ability for him to use his walker?

1 A. No.

2 Q. Are you familiar with Mr. Perez' state of
3 health at the time?

4 A. I'm not.

5 Q. So you didn't know whether he needed that
6 walker in order to walk?

7 A. I do not.

8 Q. Have you since this time examined the
9 walker?

10 A. I have not.

11 Q. So you don't know whether it still works or
12 not without this supposed missing piece?

13 A. I do not.

14 Q. Do you know where the walker is?

15 A. I do not.

16 Q. Do you know if it's gone? Lost?

17 MR. CASTELLANO: Objection, Your Honor.

18 THE COURT: Sustained.

19 Q. Isn't it true that, as Mario Rodriguez was
20 going into Mr. Perez' room, he observed that Daniel
21 Sanchez and Mr. Perez were having a conversation?

22 A. Correct.

23 Q. And he couldn't hear what was said in that
24 conversation?

25 A. Correct.

1 Q. That being Mario Rodriguez, couldn't hear
2 the conversation between Daniel Sanchez and Rudy
3 Perez?

4 A. Correct.

5 Q. And when he saw Rudy Perez, before Rudy
6 Perez made that statement, Rudy Perez looked scared
7 to him?

8 A. He did.

9 Q. That's what Mario Rodriguez told you?

10 A. Correct.

11 Q. That Mr. Perez looked scared?

12 A. Correct.

13 Q. Not excited, not pumped up and ready to go;
14 scared?

15 A. Yes.

16 Q. And after he made the statement to Mario
17 Rodriguez that he was down for whatever, as you said,
18 Mario Rodriguez understood that Rudy Perez just
19 didn't want to get hurt?

20 A. Correct.

21 Q. Because if Rudy Perez had said no, or put
22 up a fight, much like Timothy Martinez' situation,
23 Rudy Perez could have been in trouble?

24 A. I believe so.

25 Q. In danger of getting hit himself?

1 A. I believe so.

2 Q. Do you know if there is any video that
3 captures Mario Rodriguez obtaining a piece from Rudy
4 Perez' walker?

5 A. I do not.

6 Q. Do you know if the video cameras are
7 capable of capturing that?

8 MR. CASTELLANO: Objection, Your Honor.

9 MR. VILLA: I think this goes to the
10 issue --

11 THE COURT: I'll allow this question.

12 A. I do not.

13 Q. Let me turn your attention now to Exhibit
14 16, which I have here. I'm going to put it on the
15 Elmo. The date of the recording is indicated on the
16 first page of Government's Exhibit 16; correct?

17 A. Yes.

18 Q. And it's February -- we don't have a day --
19 the year 2016?

20 A. Yes.

21 Q. That's 23 months after the Javier Molina
22 murder?

23 A. Sure?

24 Q. Are you unsure?

25 A. I don't know if I'm good at math to tell

1 you the exact months.

2 Q. Well, I'm no good at math either, but the
3 Javier Molina murder occurred March 7, 2014; correct?

4 A. Yes.

5 Q. And March 7, 2016, would have been two
6 years or 24 months later; correct?

7 A. Correct.

8 Q. So sometime in February is approximately 23
9 months?

10 A. Okay.

11 Q. Is that fair?

12 A. Yes.

13 Q. So well after the fact?

14 A. Yes.

15 Q. And as you told Mr. Jewkes, the CHS or
16 individual on this recording talking to Mr. Perez is
17 Billy Cordova?

18 A. Correct.

19 Q. This recording occurred at PNM?

20 A. I believe so.

21 Q. Were you present at PNM when this was
22 taking place?

23 A. I was not.

24 Q. Were you assisting in this operation of Mr.
25 Cordova recording Mr. Perez?

1 A. I was not.

2 Q. Who was?

3 A. Other FBI special agents.

4 Q. Do you know who they are?

5 A. I'm not sure exactly. I could tell you who
6 is on the SNM investigation team.

7 Q. Well, that's okay. If you're not sure.

8 Mr. Jewkes asked you if Mr. Cordova was
9 wearing a wire. But it wasn't exactly a wire, was
10 it?

11 A. No, that's just the term a lot of people
12 use for recording devices.

13 Q. So it was a digital recording device?

14 A. Correct.

15 Q. Like a little one that you can just turn on
16 and off and record things?

17 A. Yes.

18 Q. And at the time Mr. Perez was in, you said
19 PNM -- was it Level 6?

20 A. I don't know.

21 Q. Okay. Do you know how long he'd been there
22 at PNM?

23 A. I don't.

24 Q. Do you know whether he had been kept in
25 what I call solitary confinement, what the Department

1 of Corrections calls Administrative Segregation?

2 A. I don't.

3 Q. Do you have any idea of the basis for why
4 Mr. Perez was at PNM?

5 A. I don't.

6 Q. Do you know why Mr. Cordova was at PNM?

7 A. I don't.

8 Q. Do you know which cells they were in?

9 A. I don't.

10 Q. Do you know that this communication took
11 place while they were both in cells adjacent to each
12 other?

13 A. I don't know that.

14 Q. Did you actually listen to the recording?

15 A. I haven't.

16 Q. You just read the transcript?

17 A. Correct.

18 Q. Have you spoken to Billy Cordova about this
19 transcript?

20 A. I have not.

21 Q. Have you been present when another agent or
22 individual part of your team spoke to him about this?

23 A. No.

24 Q. Do you know whether Billy Cordova provided
25 Mr. Perez Suboxone before questioning him about this?

1 A. I do not know that.

2 Q. Are you aware of any investigation into
3 whether Billy Cordova had Suboxone?

4 A. I don't know.

5 Q. Were you aware of Mr. Perez' medical state,
6 now 23 months later, in February, 2016?

7 A. I don't know.

8 Q. You do know that the first indictment in
9 this case occurred a couple months before this, in
10 the fall, November, December, 2015?

11 A. Yes.

12 Q. Mr. Perez was not included in that
13 indictment?

14 A. Yes.

15 Q. He was not?

16 A. I believe so.

17 Q. Were you aware whether there were rumors
18 that Mr. Perez was cooperating with the Government at
19 the time, February 2016?

20 A. I was not aware of that.

21 Q. Have you reviewed any other recordings
22 between Rudy Perez and Billy Cordova?

23 A. I've read over some of the transcripts. I
24 haven't listened to the recordings.

25 Q. And are you familiar with the transcript in

1 which Billy Cordova refers to these rumors, saying to
2 Rudy Perez: "Is this why the carnales or home boys
3 are talking shit about you?"

4 A. Yes.

5 Q. So you're aware of that?

6 A. Yes.

7 Q. And that statement was made by Billy
8 Cordova to Rudy Perez before Rudy Perez made this
9 statement?

10 A. I'm not sure which transcript I read that
11 in. So I don't know which order those statements
12 were made.

13 Q. Fair enough. Would you agree with me that
14 some of these individuals that you've been
15 investigating here in SNM will take responsibility
16 for things they did not do?

17 A. I don't know that.

18 Q. Do you know whether that's something that
19 you guys are on the lookout for or aware of?

20 A. We try to find that, yes.

21 Q. Okay. So let me direct your attention --
22 I'm going to zoom in. This is page 20531, USA versus
23 DeLeon, page 20531 of Exhibit 16. And I'm showing
24 you the bottom statement by Mr. Perez which is
25 highlighted in pink. Do you see that?

1 A. I do.

2 Q. Did you do the pink highlights?

3 A. I did not.

4 Q. Okay. You would have done yellow maybe?

5 A. What was that?

6 Q. Would you have done yellow maybe?

7 A. I don't know.

8 Q. I'm just kidding.

9 So Mr. Perez says here, and I'm just going
10 to read along, "Que watcha, they come to me and
11 they're like, look big dog, something has to be taken
12 care of, but we need squina. You don't have to do
13 nothing. You don't have to do nada. You don't have
14 to do fuck. We just need that. You know what I'm
15 saying? Do you understand what I'm saying?"

16 Did I read that right?

17 A. Yes.

18 Q. And that's what you understand Mr. Perez to
19 be saying, right?

20 A. Yes.

21 Q. And then the CHS, or Mr. Cordova, says,
22 "They just need that piece from the walker," right?

23 A. Yes.

24 Q. So he's trying to clarify what Mr. Perez
25 said?

1 A. Correct.

2 Q. So going back to Mr. Perez' statement. Do
3 you know what squina means?

4 A. I do.

5 Q. What does it mean?

6 A. It's like giving someone support.

7 Q. Helping them out?

8 A. Yes.

9 Q. And later on, Mr. Perez essentially says --
10 I won't read through it -- but you would agree with
11 me that Mr. Perez in this statement is purportedly
12 telling Billy Cordova that he wanted to help him out,
13 right?

14 A. Correct.

15 Q. He was cool with it?

16 A. Yes.

17 Q. Because it was a legitimate hit?

18 A. Correct.

19 Q. Right. That's what he told Billy Cordova?

20 A. Yes.

21 Q. Two years later?

22 A. Yes.

23 Q. While they were rumors that he, Mr. Perez,
24 was cooperating?

25 A. Yes.

1 Q. Right. And that doesn't sound like
2 somebody who turned over a piece of metal because he
3 was scared, does it?

4 A. I don't know.

5 Q. And I think my question is answered on this
6 that, because you haven't listened to the audio
7 recordings, you don't know whether the transcript
8 here, Exhibit 16, accurately reflects the recording?

9 A. No, I don't.

10 Q. Have you reviewed any of the documentation
11 regarding Mr. Perez' placement at PNM around the time
12 this statement was given?

13 A. I have not.

14 Q. Have you reviewed any of Mr. Perez'
15 documentation from the Department of Corrections
16 about why he was at PNM?

17 A. I have not.

18 Q. You were asked by Mr. Jewkes if you knew
19 how long Mr. Cordova had been cooperating. I think
20 you said you weren't sure?

21 A. Correct.

22 Q. But that he had been cooperating since you
23 joined the investigation?

24 MR. CASTELLANO: Objection, Your Honor.
25 Beyond the scope of the statements.

1 THE COURT: Well, I think we're getting a
2 little further. Let's rein it in. Sustained.

3 MR. VILLA: May I have just a moment?

4 THE COURT: You may.

5 MR. VILLA: Judge, that's all the questions
6 I have.

7 I would like the Court to reconsider
8 Government's Exhibit 16, given the testimony we just
9 heard from Agent Stemo. I still stand on my
10 objection regarding the due process issue. But, you
11 know, this transcript -- I think there is a lack of
12 authentication. We don't have a recording. Agent
13 Stemo has not listened to the recording, is unable to
14 say whether this transcript accurately reflects the
15 recording. She simply read it and has presented the
16 substance of it. I don't think that's sufficient for
17 the Court to consider it in the context of this James
18 hearing.

19 THE COURT: All right. Well, I'm going to
20 leave it in. And I'll consider it for the weight of
21 the evidence. I think we -- if somebody points out
22 problems with the transcript, then I can deal with
23 those. But it's going to be -- I think we all know
24 how hard it is to work from the audiotape. So I'll
25 keep it in for the present time.

1 All right. Anything else, Mr. Villa?

2 MR. VILLA: No, Your Honor.

3 THE COURT: All right. Any other defense
4 lawyer that wants to cross-examine Ms. Stemo? Mr.
5 Adams?

6 MR. ADAMS: No, sir, Judge. I just -- we
7 would join the motion as to Exhibit 16. I don't know
8 if you need us to state that or we can all
9 implicitly --

10 THE COURT: I understand the objection.
11 Mr. Lowry, do you have anything?

12 MR. LOWRY: No, sir, Your Honor.

13 THE COURT: Ms. Jacks? Anybody?

14 All right. Mr. Castellano, do you have
15 redirect of Ms. Stemo?

16 MR. CASTELLANO: I do. And for the record,
17 Your Honor, if the Court is inclined, we can also
18 produce the audio of that recording.

19 THE COURT: Well, it might be wise. I
20 think it would stem that objection, that people will
21 have both in evidence and they can point out any
22 discrepancy between the two.

23 MR. CASTELLANO: Yes, sir. We'll do our
24 best to provide it on a CD or DVD.

25 THE COURT: Any objection to the audio

1 coming in? Let's mark it as Exhibit 16 A. Does that
2 give anybody heartburn to go that direction?

3 MS. JACKS: Your Honor, I think the defense
4 would reserve any objection regarding the
5 voluntariness of the statement.

6 THE COURT: I understand. Just to address
7 this issue that Mr. Villa is raising, but the one on
8 due process we'll still have to deal with.

9 MR. VILLA: And we could do it on a break
10 or something. But if we could just have an
11 opportunity to examine it. I don't want any other
12 recordings to be admitted. I think it's just going
13 to be copied onto a CD, if I understand Mr.
14 Castellano.

15 MR. CASTELLANO: That is the plan, Your
16 Honor.

17 MR. VILLA: With that, and our other
18 reserved objections, that's it.

19 THE COURT: All right. Mr. Castellano.

20 EXAMINATION

21 BY MR. CASTELLANO:

22 Q. Agent Stemo, this is -- I have a different
23 copy of Exhibit 16, I put on the visualizer. It's
24 DeLeon page 20532. And do you see that portion of
25 the conversation regarding whether or not Mr. Perez

1 would not have provided the walkers, had it just been
2 a personal issue?

3 A. I see that.

4 Q. So there is an indication there that Mr.
5 Perez indicated that if it wasn't family business, he
6 would have refused to provide the shanks?

7 A. Correct.

8 Q. And you mentioned meetings with Mr.
9 Rodriguez. Are you aware that the first meeting with
10 him in October was merely to present the case against
11 him, and for the Government to show the evidence that
12 was to be used against him?

13 A. Yes.

14 Q. And not for the purpose of cooperation?

15 A. Correct.

16 Q. Are you aware of other people's statements
17 indicating that "Dan Dan" or Daniel Sanchez didn't
18 want the cameras to be covered because he wanted to
19 actually be seen on camera?

20 A. That sounds familiar.

21 Q. In other words, he wanted to be seen not
22 involved in the murder?

23 A. Correct.

24 Q. Now, I want to make sure there is not any
25 confusion here. You were asked earlier about

1 benefits discussed with Mr. Rodriguez. Do you recall
2 whether or not you discussed benefits with him?

3 A. I did not personally.

4 Q. Okay. Now, do you recall whether or not
5 benefits were the subject of the conversations with
6 Mr. Rodriguez?

7 A. They were.

8 Q. So, for example, were you aware of him
9 being -- asked to move to a facility where there
10 would not be gang members?

11 A. Yes.

12 Q. Would you consider that a benefit?

13 A. Yes.

14 Q. And would that facility have possibly
15 provided additional visits?

16 A. Yes.

17 Q. Was a discussion about whether or not money
18 could be placed on his books or his commissary?

19 A. There was.

20 Q. And was there a discussion about whether or
21 not cooperation could result in a reduced sentence?

22 A. Yes.

23 MR. CASTELLANO: Pass the witness, Your
24 Honor.

25 THE COURT: All right. Thank you, Mr.

1 Castellano.

2 All right. Ms. Stemo, you may step down.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: Thank you for your testimony.

5 All right. If I remember correctly, Mr.
6 Castellano, you now wanted to move to the Daubert
7 hearings?

8 MR. CASTELLANO: Yes, sir, please.

9 THE COURT: Or, I guess, Rodriguez
10 hearings, depending on how we want to proceed.

11 MR. CASTELLANO: Yes, sir. We would prefer
12 to do that, if it's okay with the Court. And then we
13 will afterwards present additional statements.

14 DAUBERT/RODRIGUEZ HEARING

15 THE COURT: All right. Who is your first
16 expert?

17 MS. ARMIJO: Ron Martin.

18 THE COURT: All right. Mr. Martin, if
19 you'll come up and stand next to the witness box.
20 Before you're seated, Ms. Solis will --

21 MR. SINDEL: Your Honor, we would invoke
22 the rule.

23 THE COURT: All right. I think we have
24 experts here. So are you -- I guess some of this
25 might get into factual testimony. Since some of

1 these are going to be fact witnesses/experts, while
2 we're sorting things out, so why don't I go ahead and
3 invoke the rule. Otherwise, we're just going to be
4 bleeding back and forth between whether they're fact
5 witnesses or experts. So who is your other expert or
6 fact witness that's here?

7 MR. CASTELLANO: Your Honor, Mr. Cupit is
8 sitting in the back of the courtroom, and of course,
9 we have the case agent remaining at the table.

10 THE COURT: All right. Mr. Acee can
11 remain. Who is the other expert?

12 MR. CASTELLANO: Chris Cupit. He's with
13 the New Mexico Corrections Department.

14 THE COURT: Mr. Cupit, you'll need to step
15 outside. Do not discuss your testimony with anyone
16 before you testify. You can discuss it with the
17 attorneys, but otherwise, you'll need to remain
18 outside and not discuss your testimony.

19 RONALD MARTIN,
20 after having been first duly sworn under oath,
21 was questioned and testified as follows:

22 DIRECT EXAMINATION

23 THE CLERK: Have a seat and state your full
24 name for the record.

25 THE WITNESS: Ronald Martin. M-A-R-T-I-N.

1 THE COURT: Mr. Martin. Ms. Armijo.

2 BY MS. ARMIJO:

3 Q. Good morning, Mr. Martin.

4 A. Good morning.

5 Q. Where are you employed?

6 A. I'm employed for the Department of
7 Corrections, New Mexico Department of Corrections.

8 Q. And how long have you worked for the
9 Corrections Department?

10 A. I have worked for the Department of
11 Corrections for 17 years.

12 Q. And how did you start, what was your first
13 position there?

14 A. My first position was as a correctional
15 officer.

16 Q. And what are the duties of a correctional
17 officer?

18 A. There are several different types of
19 duties, but mainly our duties as correctional
20 officers are for the safety and security of the
21 prison, which means that we monitor the inmates
22 that -- if they're assigned in our area, for example,
23 if I worked in a pod area, I make sure that the
24 inmates are alive and there is no escapes, or that
25 they're fed, or in the general population that

1 they're allowed to go to medical or they're allowed
2 to see a caseworker; in a segregation unit, that they
3 are allotted things they can't get to, like, for
4 example, toiletries; sometimes acting as a liaison to
5 property officers, caseworkers, unit managers. But
6 mainly to monitor and make sure that there is
7 safety -- safety of the inmates and the staff.

8 Q. And how long were you in the position of a
9 correctional officer?

10 A. I was a correctional officer, I believe,
11 for about eight years or so.

12 Q. And what were the different facilities that
13 you were assigned to?

14 A. I was assigned at Penitentiary of New
15 Mexico. I've worked at Los Lunas Correctional
16 Facility. And I've worked at the Southern New Mexico
17 Correctional Facility.

18 Q. Okay. What was the next position that you
19 held after -- and in that capacity -- let me back
20 up -- as a correctional officer, did you have daily
21 contact, daily as in your workday, contact with
22 inmates?

23 A. Yes.

24 Q. And what was next position that you held?

25 A. The next position was STIU officer at

1 Southern New Mexico Correctional Facility. I
2 transferred over to the Penitentiary of New Mexico,
3 where I was a sergeant for the last three years. So
4 I spent a total of 11 years in the Security Threat
5 Intelligence Unit.

6 Q. Okay. And we'll get back to that. What is
7 your current assignment?

8 A. My current assignment is Office of
9 Professional Standards, which means I'm an internal
10 investigator.

11 Q. Okay. And when did that one start, that
12 position?

13 A. That position started now in November.

14 Q. So you're brand-new to that position?

15 A. Brand-new, yes.

16 Q. Let's go back to the STIU. What does STIU
17 stand for?

18 A. STIU is a gang unit, but the titles are
19 Security Threat Intelligence Unit.

20 Q. Okay. And I am going to offer into
21 evidence -- and I don't know if somebody wants to
22 take the lead from defense counsel for some of the
23 documents. Anybody else have an objection to Exhibit
24 17?

25 This is going to be Government's Exhibit

1 17, which I am marking into evidence without
2 objection.

3 THE COURT: All right. Any objection? All
4 right. Government's Exhibit 17 will be admitted into
5 evidence.

6 Q. All right. And I'm placing it there on the
7 Elmo. Are you familiar with this item?

8 A. Yes, I am.

9 Q. Okay. Now, you indicated that you were
10 with the STIU, and in different capacities and at
11 different facilities I'm assuming?

12 A. Correct.

13 Q. Okay, what is the Security Threat
14 Intelligence Unit?

15 A. The Security Threat Intelligence Unit was
16 established, I believe, in 1998, after the Department
17 of Corrections -- once they were coming out of the
18 Duran Consent Decree. We had a high level of gangs
19 that were -- we really didn't have a lot of
20 information on, or there wasn't a lot of information.
21 So we kind of copied -- we didn't reinvent the wheel,
22 but we kind of copied what other states had and we
23 built a Security Gang Unit. The function of it is to
24 monitor gang activity, monitor street gangs coming
25 into the prison system, and to basically keep the

1 safety and security of the prison in order. And we
2 report to the wardens where we work.

3 Q. And were you in that unit starting back in
4 2006?

5 A. Yes, I was.

6 Q. So that was -- you mentioned the purpose of
7 the STIU. And on the screen is the first paragraph
8 of your CV. Does that also contain some of the
9 duties that you had and worked on while you were in
10 STIU?

11 A. Yes, it does.

12 (Ms. Harbour-Valdez entered the courtroom.)

13 Q. Have you heard the term STG?

14 A. Yes.

15 Q. What does that stand for?

16 A. That's Security Threat Groups.

17 Q. What are Security Threat Groups?

18 A. Security Threat Groups are prison gangs
19 that have been identified as prison gangs that are
20 disruptive to the normal operation of a prison. And
21 we go through an investigation point, and we gather
22 information to corroborate and confirm that a unit or
23 an organization, such as a prison gang, has become a
24 threat. And we certify them. And during that
25 process, we segregate them from the rest of the

1 population.

2 Q. Okay. Certification of an STG, what does
3 that include?

4 A. It includes a lot of corroborating
5 information, documentation on assaults that have
6 happened, and interviewing inmates, interviewing
7 individuals that have dropped out of the gang,
8 particular gangs, interviewing active members of that
9 Security Threat Group. Basically, it's a long
10 process.

11 The one I did on the California Surenos
12 took at least two years, a two-year process. And
13 this comes with corroboration with outside law
14 enforcement, to include other states, like
15 California, Nevada, any area where we can find
16 individuals that are -- that belong to that gang, or
17 other facilities within the New Mexico Corrections
18 Department, to include jails that have documentation
19 that violent acts have taken place, or that there is
20 security threats involving murders or intimidation of
21 staff, intimidation of other inmates, or a lot of
22 drugs coming in, or officers or staff being taken
23 advantage of.

24 Q. Now, that process that you talked about,
25 the certification to be an STG, are all prison gangs

1 STGs?

2 A. No, they're not.

3 Q. Okay. How many different prison gangs are
4 there, just roughly?

5 A. Roughly possibly about seven.

6 Q. And how many are STGs?

7 A. Three.

8 Q. And what are the three STGs?

9 A. The three STGs are the Sindicato de Nuevo
10 Mexico; Los Carnales, the LC; and the California
11 Sureños.

12 Q. And which one of those three was first
13 designated by the New Mexico Corrections Department
14 as an STG?

15 A. The Sindicato de Nuevo Mexico.

16 Q. Is that also known as SNM?

17 A. Yes, it is.

18 Q. Now, going back a little bit to your job in
19 STIU, in addition to the things that you were talking
20 about, and what's listed, does that also include
21 talking to inmates?

22 A. Yes, it does.

23 Q. On how many occasions do you think, in your
24 career with the Corrections Department, have you had
25 an opportunity to talk -- and I don't mean just like:

1 Hello, how you doing, or you know, moving people -- I
2 mean had conversation with inmates where you were
3 able to gather information from them?

4 A. That's hard to say. I would say into the
5 thousands.

6 Q. And what would be some of those different
7 types of encounters that would have included those?
8 Like under what circumstances would you talk to them?

9 A. Well, different circumstances. For
10 example, if they come into our RDC. RDC is a
11 diagnostic center where -- every inmate first comes
12 into our prison system goes through a diagnostic
13 center, and they're classified. We have STIU
14 personnel in that that identify them. They either
15 self-identify that they're a street gang member or
16 they identify that they're a prison gang member, or
17 we identify them by tattoos, by markings.

18 And at other times, if there has been an
19 assault happening in our prisons, we'll interview
20 both victim and the suspect, and we'll also interview
21 individuals that have been in the pod before or have
22 any knowledge of any of the incidents that have
23 happened.

24 When we're doing security threat
25 assessments, mood assessments, we'll interview

1 inmates. If an individual is claiming protective
2 custody, we'll interview that individual as to why
3 he's asking for protective custody. If we're
4 interviewing an individual that wants to leave the
5 gang life and renounce his gang, we'll also talk to
6 him or them.

7 There is multiple reasons. Anything that
8 has to do with a security of the institution, most
9 likely we'll talk to them: Drug interdiction, drugs
10 being found in the cells, shanks being found in the
11 cells, any number of reasons that would include a
12 security threat issue, we'll most likely talk to
13 them.

14 Q. And do you also have opportunities to read
15 some of these individuals' communications, written
16 communications?

17 A. Yes. As a unit, we sometimes will flag
18 certain individuals that we believe are conducting
19 business that we deem a security threat. For
20 example, individuals that are trying to bring drugs
21 into our facility, or individuals that may pose a
22 threat, as far as we may have heard that one
23 individual is not getting along with another
24 individual, and there might be an assault that
25 occurs. And we monitor that pretty closely. And

1 that's how we -- we would monitor their mail.

2 Q. I'm going to be marking into evidence
3 Exhibit Number 18, which is the -- what is an STIU
4 packet on an individual?

5 A. An STIU packet?

6 Q. Yes. Or is there a more proper name for
7 it?

8 A. A packet would be, if an individual comes
9 in and he's either a street gang member or prison
10 gang member, we try to get as much information as we
11 can from -- and put it into a packet, specifically
12 under that inmate. And the reason that we do this
13 is, for example, if there is letters written from one
14 inmate to another inmate, and it's relevant to us
15 that there is business being discussed in it, then if
16 we have found that a certain individual was a suspect
17 into this gang, this would give us more evidence to
18 validate that individual as being part of that gang,
19 if there is gang business being discussed.

20 But those are several of the reasons,
21 several different reasons why we would put it into a
22 packet. Just information purposes. Because if we go
23 to court, and let's say, for example, a gang member
24 refutes the fact that he was put into or identified
25 into a certain gang, then we have all the information

1 necessary to counter that and say, Well, we have this
2 evidence to prove that you are part of that gang.

3 Q. Is part of the packet the process that
4 Corrections uses to determine if a person is a
5 suspected gang member or a gang member or verified by
6 corrections gang member?

7 A. Yes. We have a criteria that would -- that
8 we follow to either suspect or validate.

9 MS. ARMIJO: And, Your Honor, at this time,
10 I'm going to move in Exhibit Number 18, which I've
11 shown to Mr. Baca's counsel. That has been disclosed
12 as Mr. Baca's STIU packet. And I believe Mr. Baca's
13 attorney does not oppose --

14 MS. JACKS: What is the Bates number?

15 MS. ARMIJO: It starts Bates 11275, and
16 continues to 11441.

17 THE COURT: All right. Any objection to
18 Government's Exhibit 18?

19 MS. DUNCAN: Your Honor, we don't have any
20 objection to her using it for demonstrative purposes,
21 but we object to the accuracy of any information
22 contained herein.

23 THE COURT: I didn't hear all that you
24 said. I'm sorry.

25 MS. DUNCAN: I haven't had a chance to look

1 over the whole document, Your Honor. But we don't
2 object to it being used for demonstrative purposes.
3 But --

4 THE COURT: I'm not sure your microphone is
5 on.

6 MS. DUNCAN: Your Honor, we're not opposed
7 to using this pen pack for demonstrative purposes,
8 but obviously, we don't agree that any of the
9 information contained therein or all the information
10 contained therein is accurate or true.

11 THE COURT: All right. But it doesn't
12 sound like you object to it coming in as evidence; is
13 that correct?

14 MS. DUNCAN: I guess not for the truth of
15 the matter. But I understand that Ms. Armijo is
16 using it just to show how the classification works.
17 So I don't object to it on that ground.

18 THE COURT: Well, if that's the only
19 objection, I'm going to admit Government's Exhibit
20 18.

21 Did you have something, Mr. Castle?

22 MR. CASTLE: Yes, Your Honor. I believe
23 this is only being offered for the purposes of this
24 hearing. But I don't really know what the purpose is
25 in admitting it. I do have a number of questions

1 concerning the exhibit, which could be classified as
2 voir dire, but if the Court would allow, I can just
3 combine that with my cross-examination at the time,
4 and the Court can conditionally admit this and make a
5 final ruling at that time.

6 THE COURT: Do you want to do voir dire at
7 this time?

8 MS. ARMIJO: You can do the voir dire.

9 THE COURT: Go ahead, Mr. Castle.

10 VOIR DIRE EXAMINATION

11 BY MR. CASTLE:

12 Q. Agent Martin, did you have an opportunity
13 to look at Exhibit 18 prior to testifying today?

14 A. No, I have not.

15 Q. So you don't know what's in it?

16 A. No.

17 MR. CASTLE: I object to 18.

18 THE COURT: Well, I don't think there is
19 any doubt what this document is. It's coming into
20 evidence.

21 MR. CASTLE: Then I'm going to ask for some
22 additional questions, if that's all right, Your
23 Honor.

24 BY MR. CASTLE:

25 Q. If you could look at Exhibit 18 and tell me

1 whether you authored any of the documents contained
2 therein?

3 A. No, I don't believe I have. But I'm
4 familiar with most of the documentation.

5 Q. How are you familiar with the
6 documentation?

7 A. I reviewed it.

8 Q. You reviewed it in preparation for today
9 or --

10 A. No, I reviewed it before as part of my job.

11 Q. Would it be fair to say that Exhibit 18
12 contains a variety of different documents, different
13 types?

14 A. Yes, from STIU.

15 Q. I'm sorry?

16 A. From the STIU department, yes.

17 Q. Now, when these files or these folders or
18 packets are produced, are they ever purged of
19 material as long as the person is in custody?

20 A. I'm not sure I understand your question.

21 Q. Well, are items taken out of the packet
22 ever, or are they just added to the packet?

23 A. I suppose on some occasions some things
24 could be removed, but mostly added.

25 Q. What would be the occasions where items

1 would be removed from an individual's security threat
2 or STIU packet?

3 A. If the coordinator had done an audit on the
4 packet and found that it had no -- it wasn't related
5 to anything that would be classified gang activity,
6 it would probably be removed.

7 Q. So who would have access to this packet?

8 A. STIU staff.

9 Q. So anyone in the STIU staff could access a
10 particular packet?

11 A. They could review it, yes.

12 Q. And could they add to it or remove from it,
13 anyone in the STIU unit?

14 A. They could add to it. They cannot remove.

15 Q. Who can remove them?

16 A. The administrator.

17 Q. Is there a particular -- is that a singular
18 person, or is there multiple administrators?

19 A. Well, the way it works is, let's say, for
20 example, that the coordinator did an audit and found
21 on a validated individual, a gang validated
22 individual, that there was information in there that
23 was not valid, relevant to gang activity, then the
24 coordinator could make a request to the administrator
25 that it be removed. And that's the process that we'd

1 have to follow.

2 Q. And if such happened, would there be some
3 kind of a memorandum within the packet that indicated
4 what had been removed?

5 A. There would probably be -- I don't think
6 that would be in the packet, no. That would probably
7 be correspondence between the administrator and the
8 coordinator.

9 Q. And where would that correspondence be
10 filed, if not in the packet?

11 A. I do not know.

12 Q. Now, just leafing through this packet, it
13 contains interviews of individual inmates at the
14 facility; is that right?

15 A. Correct.

16 Q. And that would be by STIU officers or
17 corrections officers?

18 A. STIU personnel, or -- let's say, for
19 example, a unit manager or a caseworker did an
20 interview, and during that interview there was
21 information regarding gang activity, and that would
22 be turned over to us. And if we're going through
23 mail scan, and there was a letter written from one
24 inmate to another inmate that contained gang
25 information, that would also be included in there.

1 Q. You talked about some security threat
2 interviews that are conducted by STIU officers --

3 A. Correct.

4 Q. -- right? Those are contained within this
5 packet or some of them are?

6 A. No, we don't always put them all in that
7 packet, no.

8 Q. No, I'm not saying that all of them are.
9 But some of them are in this packet; is that right?
10 There are some security threat officer interviews in
11 here?

12 A. Only if it pertains to that individual. If
13 it doesn't, it's not always going to be in there, no.

14 Q. What I'm asking is are there documents
15 within the file that are investigative reports or
16 interviews conducted with inmates?

17 A. I suppose there is.

18 Q. Would you like to take a look at one?

19 A. Well, I believe you. There are some, I'm
20 sure.

21 Q. When those interviews are conducted, would
22 those be fairly characterized as investigatory
23 interviews by the STIU officers?

24 A. The file's purpose is for it to contain
25 gang activity or corroboration that there is

1 legitimate gang concerns or security concerns. We
2 don't put every interview that we've had into a gang
3 packet.

4 Q. Well, let me show you a document at page,
5 Bates page 11375.

6 A. Sure.

7 Q. Is that a page from this packet, if you'd
8 look at the lower right-hand corner?

9 A. Are you asking me if this interview is in
10 this packet?

11 Q. No, I'm asking if page 11375, is that a
12 page that's contained within the packet that's been
13 identified as Exhibit 18?

14 A. Yes.

15 Q. Is that an interview conducted with a
16 confidential human source?

17 A. Yes, it is.

18 Q. And that's with -- who attended that
19 interview?

20 A. It appears that it was written by Corianne
21 (phonetic), an STIU officer at the Penitentiary of
22 New Mexico.

23 Q. And also with him was a Special Agent from
24 the Department of Justice, FBI; is that right?

25 A. Correct.

1 Q. Okay. So would you characterize that
2 document as an investigatory interview by law
3 enforcement with an informant in the case?

4 A. Yes, I would.

5 Q. Without going through all the materials,
6 would it be fair to say that the collection of
7 materials, which you have identified as Exhibit 18,
8 are all materials that are collected for the purposes
9 of investigating whether Mr. Baca was a member of a
10 Security Threat Group?

11 A. Not only if he's a member, but it tells you
12 other things as well. Is he a leader in that
13 organization? Is he a target in that organization?
14 So it will contain a lot of different things.

15 Q. But in regards to Exhibit 18, all of this
16 is information that has been collected by someone
17 other than you?

18 A. Correct.

19 Q. And almost always it would be information
20 collected by STIU officers or other corrections
21 officers, and put into written form to include into
22 the packet?

23 A. Yes. If it's given to us and the
24 coordinator finds it to be relevant to put into that
25 file, then he would give the -- he would say we

1 should put it into that file.

2 Q. Have you vetted the information contained
3 within that packet to determine whether it's all
4 true?

5 A. I have not.

6 MR. CASTLE: Your Honor, at this time, I
7 would object to it being admitted without limitation,
8 because this witness neither compiled it, nor is he
9 the author of any of the documents, nor can he verify
10 the accuracy of a single document or of the packet in
11 its whole.

12 If it's being offered merely as an example
13 of the types of material that are contained within an
14 STIU file and types of material that this expert
15 might look at or this proposed expert might look at
16 in his work, I don't have an objection, if it's for
17 that purpose.

18 THE COURT: What's the purpose that you're
19 offering it for? Is it for the truth of all the
20 matters asserted in it, or is it for some other
21 purpose? What's the --

22 MS. ARMIJO: Well, Your Honor, it's also a
23 business record. It's part of -- it's maintained in
24 the normal course of business. It is added to at or
25 near the time of the entries. It's part of what the

1 STIU uses for suspected gang members or gang members
2 in the verification process in it. It does contain
3 letters to -- it contains a variety of things.

4 Certainly --

5 THE COURT: Well, I wasn't so concerned
6 about the hearsay objection. I was just wondering
7 what do you want me to glean from this document
8 that's being offered? And maybe that will clear up
9 some of the problems that the defendants have.

10 MS. ARMIJO: Well, it goes in part to the
11 witness' explanation of persons that are gang
12 members, and it also contains the certification
13 process which, I believe, is important for the Court
14 to hear and to weigh in considering the amount of
15 expert testimony that we can get into with this
16 witness and his knowledge of what's in this package.
17 And it's specifically, as an example, Mr. Baca.

18 THE COURT: Well, I'm going to admit the
19 document, and we can argue about what I should and
20 shouldn't consider from it for purposes of either the
21 Daubert/Rodriguez hearing. So I'll admit it. I'm
22 not quite sure what I'm supposed to do with it. But
23 we can argue that out.

24 All right. So Government's Exhibit 18 will
25 be admitted into evidence for purposes of this

1 hearing.

2 MS. SIRIGNANO: Your Honor, if I may enter
3 an objection just for the record, please?

4 THE COURT: You may.

5 MS. SIRIGNANO: Team Garcia doesn't believe
6 that this document has been properly -- Your Honor,
7 I'd just like to lodge this objection for the record.
8 We don't believe this document has been properly
9 offered. While I understand that the rules of
10 evidence aren't necessarily obligatory during these
11 types of pretrial proceedings, I'd like to lodge that
12 objection. This is not the proper witness to admit
13 to evidence in. He has not authored it. While it
14 might be a business record under the hearsay
15 exception, he's not the custodian of these records.
16 He hasn't written anything in these records. And I
17 believe that this is just the Government's attempt to
18 get this in before the Court without the proper
19 witness. Thank you.

20 THE COURT: All right. Ms. Armijo.

21 BY MS. ARMIJO:

22 Q. And Mr. Martin, what we're looking at, just
23 so we're clear, Exhibit 18, we're looking at it on
24 the Elmo, what does the face sheet illustrate, which
25 is Bates 11275?

1 A. That's a New Mexico Corrections Department
2 master record entry. This information is collected
3 at the diagnostic center, Reception and Diagnostic
4 Center, when an inmate is admitted into the prison
5 system. Also, it's updated as they do their prison
6 time.

7 Q. Okay. And I'm going to go to the bottom of
8 the page. And for instance -- the bottom of the page
9 we have a couple of different sentences; is that
10 correct?

11 A. Yes.

12 Q. For instance, there is one that says,
13 "Sentence began 1990 for" looks like "possession of a
14 deadly weapon." And then there is another entry:
15 "Sentence began 2004," with a sentence of "998.7
16 years for murder in the first degree and possession
17 of a deadly weapon"?

18 A. Correct.

19 Q. All right. Now, going to the second page,
20 what is it that we're looking at? Are you familiar
21 with this form?

22 A. Yes, I am.

23 Q. And what is this form?

24 A. This is a form that we use, "STG
25 Documentation Index," and we mark down documents that

1 are in the file.

2 Q. So, for instance, that is 5/30/08 -- looks
3 like it's typed. Is that information that may have
4 been originally in this file?

5 A. Yes, that would indicate the first photo
6 that you showed, that escape flier is in the packet.

7 Q. Okay. And does this contain -- under
8 "document description," does this contain all of the
9 original information that was contained in the
10 original packet in May of 2008?

11 A. Yes.

12 Q. Okay. We can see on this page that there
13 is additional entries in there with dates that are
14 handwritten. Can you explain that to us?

15 A. Yes, in 2/14/09, the inmate's name is
16 Anthony Ray Baca; his MDC number to identify his
17 number for the Corrections Department. The document
18 description that was added -- it's added documents.
19 And it was entered by staff entry that would have
20 been James Mulherron, who was the STIU coordinator at
21 Southern.

22 Q. Okay. Are all these dates that are
23 handwritten are dates that things were added to this
24 file?

25 A. Correct.

1 Q. And this page would document that?

2 A. Yes, it would.

3 Q. And I'm going to the next page, which is
4 the third page in the packet. Are you familiar with
5 what is on the screen?

6 A. Yes, I am. It's a criteria that we use for
7 suspecting or validating members of an STG group.

8 Q. An STG group or member?

9 A. Member, I'm sorry.

10 Q. Okay. And tell us how it works.

11 A. If we interview the individual and he
12 self-admits that he is a member of that group, we
13 would put -- we would -- the criteria would be slided
14 off. So self-admission would also indicate a tattoo,
15 so a tattoo would indicate self-admission as well.

16 Symbolism: If there is any symbolism, such
17 as codes or signs or tattoos that are used by this
18 gang to indicate that they have membership in it, and
19 documents that we found, maybe writing to another
20 gang member, and within that they have, for example,
21 the SNM symbol, a Zia with an SNM in it, or the
22 Surenos with the Nahautl lettering, three dots and
23 two lines. So different gangs will have different
24 identifiers, depending on symbolism.

25 So anything within that, that we find on

1 documentation, anything that we find that can give us
2 more information or intelligence that this individual
3 belongs to that group, then that verifies that he's
4 most likely a member of that group.

5 And then the point system -- we work by the
6 point system. So the criteria here would indicate
7 that all the marks -- the markings that were marked
8 off add two points. So at the end of it, on 5/13/11,
9 when they did this, the total criteria that was met
10 was 29 points. And the minimum criteria that we have
11 to meet is 10.

12 Q. Okay. So in order for the STIU to indicate
13 that a person is a validated gang member on this
14 sheet, they would have to reach 10 points; is that
15 correct?

16 A. Ten points, correct.

17 Q. And at least as of the last entries on
18 this, Mr. Baca had met 29; is that correct?

19 A. Correct.

20 Q. So does Corrections consider him a
21 validated gang member?

22 A. Yes, they do.

23 Q. Of what gang?

24 A. The Syndicato de Nuevo Mexico.

25 Q. You were talking a little bit about stuff,

1 and we will leave that on there, because I want to
2 talk about the SNM.

3 Are you familiar -- did you have an
4 opportunity to read Document 1299, which was the
5 United States expert notice and motion in limine to
6 admit gang witness expert testimony, which contained
7 proposed expert testimony from you and two other
8 persons?

9 A. Yes.

10 Q. And did you, in reference to the proposed
11 expert testimony that's listed out on pages 1 through
12 6 of that document, do you agree with all of what's
13 written on that document, after having a chance to
14 review it?

15 A. Yes.

16 Q. Now, what is the SNM?

17 A. The SNM is a prison gang in the New Mexico
18 Department of Corrections, that has been certified as
19 a disruptive -- I mean a Security Threat Group.

20 Q. And I'm going to -- before you get any
21 further, I think I have -- do you know when it was
22 certified -- oh, wait I think I -- hold on, let me
23 get to something here. I'm referring to Bates stamp
24 11278, which is in Exhibit 18. Are you familiar with
25 this document?

1 A. Yes, I am.

2 Q. And what is it that we're looking at?

3 A. It's a memorandum to the Director of Adult
4 Prisons, John Shanks, from the Security Threat Task
5 Force. The subject is Sindicato de Nuevo Mexico,
6 certification of Security Threat Group. So this was
7 offered up to Mr. Shanks at the time, and he
8 concurred that, with all the information that was
9 provided, that the Sindicato de Nuevo Mexico was
10 considered a Security Threat Group.

11 Q. So was this when they actually became an
12 official Security Threat Group?

13 A. Yes, once it's signed, absolutely.

14 Q. Okay. So February 8, 1999; is that
15 correct?

16 A. Correct.

17 Q. Now, when did -- do you know when the
18 SNM -- have you had an opportunity -- let me lay a
19 little bit of foundation. Have you had an
20 opportunity to interact with SNM Gang members?

21 A. Yes, I have.

22 Q. In what capacity?

23 A. As a correctional officer, as a Security
24 Threat Intelligence Unit officer, basically that's
25 it.

1 Q. So in your time in Corrections?

2 A. Yes, while working in Corrections, correct.

3 Q. And also during that time, I believe you
4 testified earlier about the different circumstances
5 that you've talked to individuals. Would that apply
6 to SNM Gang members?

7 A. Yes, it would.

8 Q. And through that, have you gained
9 information about the SNM?

10 A. Yes, I have.

11 Q. And have you had any training about prison
12 groups?

13 A. Yes, I have.

14 Q. And I believe it's listed on your -- you
15 have your qualifications on your CV. In addition to
16 that, have you given trainings?

17 A. Yes, I have.

18 Q. And when did you start being an instructor
19 on prison groups?

20 A. I started being an instructor, I believe,
21 in 2010.

22 Q. Now, specifically as to the SNM, you
23 indicated, I believe earlier, that STIU was created
24 in -- was it 1998?

25 A. Yes. It was called the Security Threat

1 Groups Intelligence Unit, which was later changed to
2 Security Threat Intelligence Unit.

3 Q. And then, in 1999, we have our first
4 certified security threat group; is that correct?

5 A. Correct.

6 Q. Now, what sort of activities is the SNM
7 involved in?

8 A. The SNM, are you talking about?

9 Q. Let's start in the prison.

10 A. In the prison system?

11 Q. In the prison system.

12 A. Well, in the prison system, they're
13 involved in the control of, mainly of narcotics,
14 narcotics coming into the prison, trying to control
15 other gangs that are involved in narcotics in the
16 prison. For example, if there is another -- if there
17 was another group bringing in drugs to the prison,
18 they would be taxed, and they would have to give some
19 of that money to the SNM, because they were bigger
20 and more powerful and more viable.

21 So anything -- any underground economy that
22 goes into the prison, for example, of selling goods,
23 contraband, the selling of shanks, the selling of
24 narcotics; protection, if an individual needed
25 protection, he'd have to pay protection money. Also

1 rat money. If an individual wanted to live in peace,
2 and he belonged to no other gang, he might be forced
3 to pay a protection tax.

4 Q. Okay. Those are --

5 A. Pretty much anything that they could make
6 money on, or that would make money for the
7 organization, they were involved in it.

8 Q. What about violent crimes? Are they in any
9 way associated with prison gangs?

10 A. Yes. They differ a little bit, like, for
11 example, from the Mexican Mafia. The Mexican Mafia
12 is a violent group as well, and -- but their primary
13 goal is to make as much money as they can, and tax as
14 many inmates, not only inside the prison, but outside
15 the prison, to collect money. The SNM is mainly
16 known for violence. They're known that they're a
17 very violent organization.

18 Q. And okay, and how so?

19 A. They prey on the weaker inmates. And if
20 orders are not followed within the organization, it
21 could result in violent retaliation against its own
22 members.

23 Q. Do they have a structure, the SNM?

24 A. Yes, they do.

25 Q. What kind of structure do they have?

1 A. At the beginning, they had what I would
2 call a Don, who was a jefe, who was a guy that's in
3 charge. At the time, it was Juan Baca. He was the
4 originator. And he basically wanted to structure the
5 SNM after the Mexican Mafia, which would only allow
6 individuals that were violent into the group. As it
7 changed later on, after Juan Baca left, you had Angel
8 Munoz, "Papa Smurf," who went by the moniker of "Papa
9 Smurf." "Papa Smurf" would allow individuals to come
10 into SNM not to commit violent acts sometimes, but if
11 he had a drug connection or -- his primary focus was
12 to control the drug market.

13 Q. And about -- what time period is this
14 approximately?

15 A. This is in the '90s. It started off in the
16 '80s, the early '80s, right after the prison riot.
17 And in the '90s, when Juan Baca was gone, Angel Munoz
18 took over, and what he would have was a table of
19 individuals that he would call captains. He put
20 captains on the boards. And those captains would
21 then have soldiers underneath them. And those
22 soldiers -- primarily, if you brought an individual
23 into the SNM, he pretty much fell under you. But he,
24 had a table or a tabla, what they called, of
25 individuals that were captains. And then a Don at

1 the top.

2 Q. Now, has that structure varied throughout
3 the years?

4 A. It has, yes.

5 Q. And how so?

6 A. When we removed a lot of individuals that
7 we knew were high ranking members within the SNM, and
8 we moved them out of state, our objective was kind of
9 to cut the head off the snake. At this time, other
10 individuals started to take rein of -- well, control
11 of the SNM. And there was a lot of infighting within
12 the SNM, because they didn't believe that one leader
13 was either going in the right direction or that he
14 had individuals that were plotting against other
15 individuals. So a lot of jealousy and a lot of
16 bickering started. So you would have what you would
17 call different cliques within the SNM. Yet, overall,
18 if something were to happen, they would still come
19 together as a unit. But there was a bunch of
20 different cliques that would say, "I'm not following
21 this guy," for example. They would say, "I'm not
22 following 'Styx.' I'm going to follow" --

23 Q. Who is "Styx"?

24 A. Gerald Archuleta. Or they would say, "I'm
25 following 'Shotgun.'"

1 Q. Who is "Shotgun"?

2 A. Arturo Torrez.

3 Q. Okay.

4 A. Arturo -- I think that's right.

5 But they would have different individuals
6 following different groups. And that's what brought
7 in a lot of the infighting.

8 And then, in 2008 or 2009, we had an
9 individual that came back into our prison system as
10 one of the main leaders, and started taking control
11 of the SNM again.

12 Q. And who was that?

13 A. Anthony Ray Baca.

14 Q. Now, have you had conversations with Mr.
15 Baca?

16 A. Yes, I have.

17 Q. Have you -- on more than one occasion?

18 A. Yes.

19 Q. Now, when you indicated 2008, 2009, he came
20 in and he took control of it?

21 A. Right. Mr. Baca was -- I believe in 1997
22 or '98, he was transferred out of state, to the
23 Nevada Department of Corrections. He returned back
24 to the New Mexico Department of Corrections, I
25 believe in 2008 or 2009. And he went through -- I

1 believe he was put back at the Penitentiary of New
2 Mexico, and then transferred to Southern New Mexico.

3 Q. Now, are there -- there are several
4 different correctional facilities in the state;
5 correct?

6 A. Correct.

7 Q. Now, are there basically, though, two main
8 campuses, for lack of a better word, in which your
9 STG members will be held?

10 A. Yes. SNM, in particular, was housed at
11 Southern. The population setting was set at
12 Southern.

13 PNM was used as -- it's more of a place
14 where we have segregation. And it's a program,
15 basically, where they have to go if they go to
16 segregation. It's a step-down program that would
17 take them from the Level 6 to the Level 5, and then
18 return back to a Level 4 setting, which the SNM was
19 categorized as a Level 4 population setting.

20 THE COURT: Ms. Armijo, is this a pretty
21 good time --

22 MS. ARMIJO: Oh, sure, Your Honor.

23 THE COURT: All right. Why don't we take
24 our lunch break now. See you back in about an hour.
25 Shoot for that. We'll be in recess.

1 (The Court stood in recess.)

2 THE COURT: All right. Everyone ready to
3 go? Mr. Martin, if I could have you return to the
4 witness box. Does everybody have counsel?

5 (Mr. Burke is no longer in attendance.)

6 THE COURT: All right. We'll go back on
7 the record. Let's everybody try to keep it closer to
8 an hour, rather than an hour and 15 minutes in
9 getting back from lunch. That delays everybody.

10 MR. DAVIS: Judge, I apologize. This is my
11 fault. I just completely mistook the time. So I
12 apologize, Judge.

13 THE COURT: All right. Two things, one is
14 the CJA lawyers have been asking Ms. Wild for a CJA
15 meeting. I don't know if we're going to get it
16 squeezed in. We're losing some time today getting
17 lawyers and defendants into the courtroom, so we're
18 losing some time today. So I don't know if we'll
19 have the meeting. But I can tell you this, every CJA
20 voucher that I have been presented with is signed and
21 on its way back, or already in Albuquerque. Every
22 motion that has been presented to me by the
23 defendants has been signed and either is in Fed Ex
24 packages or already there. So if that's of any
25 comfort to anybody, anything there is. If we need a

1 CJA meeting, we can have it. But every request that
2 I know of has been dealt with.

3 Secondly, I'm going to begin to turn
4 attention from the disqualification motion to
5 something else. And so, unless somebody proposes
6 other work they would like me to concentrate on a
7 little bit more in detail or either reconsider or
8 rethink, I'm going to turn to Shauna Gutierrez's
9 motion to dismiss. I said I'd take a look at that.
10 So unless somebody has got a better candidate, that's
11 what I'm going to turn to.

12 So be thinking of that. When I leave here
13 tomorrow, I certainly want a batting order of things
14 the parties want me to work on in greater detail.
15 Let me get -- let's see, Mr. Burke is gone. So he is
16 gone. But we do have Ms. Harbour-Valdez.

17 What we did here to move things along, all
18 the voucher numbers were sent to Ms. Wild and she's
19 already processed. So any voucher is processed, so
20 that's where we stand on any vouchers. Okay.

21 So Mr. Burke is gone. Anybody else leave
22 us during the lunch hour? All right.

23 All right. Mr. Martin, I'll remind you
24 that you're still under oath.

25 THE WITNESS: Yes, sir.

1 THE COURT: Did you have something you
2 wanted to take up before Ms. Armijo continues the
3 direct examination of Mr. Martin, Mr. Castellano?

4 MR. CASTELLANO: Yes. Just a housekeeping
5 matter. I have a disc, which is marked Exhibit 16 A.
6 It's the audio of the transcript that was introduced
7 this morning. So it will be available for defense
8 counsel to listen to during a break if they need to.

9 THE COURT: All right. It has been
10 admitted into evidence.

11 All right. Ms. Armijo, if you wish to
12 continue your direct examination of Mr. Martin, you
13 may do so at this time.

14 MS. ARMIJO: Thank you, Your Honor.

15 THE COURT: Ms. Armijo.

16 BY MS. ARMIJO:

17 Q. I believe, when we broke for lunch, we were
18 talking about the different levels of classification.
19 Can you please explain those again?

20 A. The different levels the New Mexico
21 Corrections Department works under is classification
22 from a Level 1 to a Level 6. The Penitentiary of New
23 Mexico holds classifications from a Level 6, Level 5,
24 and Level 4.

25 Q. And which is the highest security-wise?

1 A. Level 6 would be the highest.

2 Q. And then I think you had mentioned before
3 lunch that up at the PNM it's people working down
4 from 6 to go back to 4?

5 A. Right. With the new administration that we
6 have gotten, the classification kind of changed a
7 little bit, where the north facility is Level 6.
8 It's called the predatory management program where
9 individuals are locked up for a period of about four
10 months, and they work themselves into congregate
11 movement.

12 Q. And how does that differ from Southern?

13 A. Southern is a population prison. It's a
14 Level 3. A level 3 and Level 4 -- Level 3, Level 4,
15 and it holds some segregated inmates, which are Level
16 6.

17 Q. Now, at this point in time, was a
18 determination made that the SNM members would be held
19 down there?

20 A. Yes. I believe that they've been held down
21 there, wow, maybe since 2003, they've been down
22 there, or even longer than that.

23 Q. All right. Are you aware of the Castillo
24 and Garza murders?

25 A. Yes, I am.

1 Q. Okay. And if those occurred in 2001, would
2 they have been held down there, in 2001?

3 A. Yes. At that time, they were still in the
4 population setting. So they were certified as a
5 security prison group. But there was still members
6 that were out in the -- so it was an ongoing process.
7 It was a new process to us. So it was an ongoing
8 process. So we -- after the murders is when we
9 started segregating members of the SNM into their own
10 population setting.

11 Q. After the murders of whom?

12 A. Of Garza and --

13 Q. Castillo?

14 A. Castillo, yes.

15 Q. And now, I believe you were talking a
16 little bit about the structure of the SNM and
17 leadership. How does somebody become a member?

18 A. A member usually is brought in by -- he has
19 to be voted on by -- by the hierarchy. So, for
20 example, if I'm already an SNM member, and I want to
21 bring someone in that I know is pretty credible, and
22 he meets the criteria for the gang, then I'll
23 introduce him, and I have to vouch for him. I
24 believe that not only I, but two other members would
25 have to vouch for him as well; that he would be in

1 good standing. And after a period of orientation, if
2 you would call it that, then he would be allowed in.

3 In the early '80s and into the mid '90s,
4 that individual was obligated to commit some kind of
5 a violent act in order to show his loyalty to the
6 gang, if you will. Their motto at the time was blood
7 in-blood out. You bring blood to get in, and you
8 can't get out unless you're taken out by blood.

9 Q. Now, are you aware of whether or not things
10 more recently than the '80s and '90s have been a
11 little bit more relaxed about that?

12 A. Yes, I believe they have. We haven't seen
13 so much of that. There has been, like the murder of
14 Freddie Sanchez; that was considered a hit because he
15 ratted to law enforcement. Also, there has been
16 individuals that have left for religious purposes,
17 and they have been let go. And now we created a
18 program called Restoration Into Population, which is
19 basically a dropout unit, a gang dropout unit. So
20 that's another area or an avenue of individuals that
21 can take that route.

22 I haven't seen a lot of -- I haven't really
23 seen any -- in the 2000s I haven't seen really
24 anybody get murdered or heard of anyone getting
25 murdered because they wanted out of a gang.

1 Q. All right. But what about rules of the
2 gang?

3 A. Yeah. They have rules. And they've
4 changed as well. At the beginning, they had rules;
5 the three rules that existed were: You don't snitch
6 on anyone. That's an automatic -- they would murder
7 you. You don't leave a brother hanging or a carnale
8 hanging. That was also -- so there was a rule of
9 where you either were beat up; that was a sanction,
10 you were either beat up, you were either stabbed, or
11 you were killed.

12 I believe that some of those rules have
13 flexed a lot, and they changed the way that they
14 operated.

15 Q. What about the rule as to cooperators? Are
16 cooperators seen as people who should be killed?

17 A. Absolutely. They're seen as snitches or
18 rats.

19 Q. And are you familiar with the murders that
20 are charged in this case? And I can -- you don't
21 have the indictment in front of you. Are you aware
22 of the motive for the Javier Molina -- let's use that
23 as an example?

24 A. Yes, I am.

25 Q. And what was the motive behind the killing

1 of Javier Molina?

2 A. The motive behind killing Molina was there
3 was written documentation on law enforcement that he
4 had told on someone else or provided information to
5 law enforcement on someone else. So basically
6 ratting.

7 Q. Have you heard the term "paperwork"?

8 A. Yes.

9 Q. What does that refer to?

10 A. They refer to that, in order to move on a
11 brother or a carnal, they have to have it in black
12 and white. So it's got to be written documentation
13 that offers proof that this person indeed ratted.

14 Q. And if that person did, in fact, rat, what
15 happens?

16 A. It's an automatic death sentence.

17 Q. Now, are you familiar with the murder of
18 Freddie Sanchez?

19 A. Yes, I am.

20 Q. And how are you aware of that murder?

21 A. I conducted an interview with Mr. Sanchez
22 before he was killed.

23 Q. Was Mr. Sanchez a SNM Gang member?

24 A. Yes, he was a validated SNM Gang member.

25 Q. Was he in good standing when he was killed?

1 A. No, he was not.

2 Q. And why not?

3 A. There was documentation that Mr. Sanchez
4 had provided information to law enforcement in
5 Roswell.

6 Q. And did Mr. Sanchez know that he was not in
7 good standing?

8 A. Yes, he did.

9 Q. Where was he at when you spoke to him?

10 A. He was at Southern Correctional Facility.

11 Q. In reference to his murder, which was in
12 2007, when exactly did you talk to him, or I should
13 say approximately when did you talk to him?

14 A. I talked to him approximately three days
15 before he was murdered. And he was in the
16 orientation status.

17 Q. What does that mean?

18 A. Orientation status means that when a new
19 arrival show up at a prison, we keep them in
20 segregation within the pod, or the unit where
21 everyone else lives.

22 After a certain amount of time, we have a
23 committee meeting to involve STIU, the unit managers,
24 and classification officers. At this point, the
25 inmate can state whether he feels comfortable living

1 there, or if maybe other individuals in the pod have
2 given him a heads-up or have told him that he's going
3 to be a target for assault, and at this point he can
4 request to be removed out of that unit.

5 Q. Okay. Is that part of the interviews that
6 you mentioned earlier, when you were talking about
7 opportunities that you've had to talk to gang
8 members?

9 A. That's some of the opportunities, yes.

10 Q. And Mr. Sanchez, was he concerned for his
11 safety?

12 A. When I spoke to him, he was.

13 Q. Now, what about different ways of
14 communication between SNM Gang members? Are you
15 aware of how they communicate, other than just
16 standing next to each other and talking?

17 A. Yes. Sometimes they'll use sign language
18 to communicate with one another. Do you mean --

19 Q. I'm sorry? Oh, no, I mean, like -- okay,
20 if they can't talk to each other, do they send each
21 other letters?

22 A. Oh, yes. I'm sorry. I didn't understand
23 your question too well. They will send what you call
24 kites, which are really small notes they'll pass to
25 each other. And there is a lot of different ways to

1 circumvent the security system. Sometimes they'll
2 send it through the laundry. We do their laundry and
3 they'll pass notes through the laundry. Or they'll
4 get the bag and they'll mark the laundry bag belongs
5 to whomever, the inmate they want to send the kite
6 to, and the kite usually gets to them. Sometimes
7 they'll get staff to inadvertently pass letters for
8 them. Or at other times, they'll situate themselves
9 where they can end up in the same recreation pen
10 together, and they're able to talk to each other that
11 way.

12 Q. What about telephone calls?

13 A. Yes, telephone calls. There is different
14 ways to do this. Sometimes they'll have a
15 conversation about absolutely nothing for a long
16 period of time where, you know, the purpose is to
17 bore you of the conversation that there is nothing
18 going on. And for about 10 seconds or so, even less,
19 they will discuss business. Sometimes they'll use
20 letters -- I mean words, such as "Washington," which
21 would interpret them -- meaning themselves, mi
22 garito, different things like that, that would state
23 that they're talking about themselves. Or they use
24 different words for codes to mean different things.
25 If they're talking about heroin, they might refer to

1 a singer like Michael Jackson, different things like
2 that. They'll refer to games, such as soccer games,
3 for example. If there is a soccer game going on,
4 they will be on the phone saying: Did you see the
5 soccer game last night? Yeah. Did you see Juan
6 scored three goals, which would mean that Juan paid
7 or didn't pay. If they're mentioning his name, that
8 means he paid for the dope, or didn't pay for the
9 dope, different things like that.

10 Or the females will also pass on messages.
11 When they're in contact visits, that some of them are
12 not monitored, some of the visits not monitored, so
13 that they're able to get a code of only what them two
14 know what it means. So when they're talking on the
15 phone, and they pass this code on, then that person
16 knows exactly what they're talking about, and that's
17 a harder code to break.

18 Q. Now, you talked a little bit earlier about
19 activities within the prison. What about, does SNM
20 have any activities on the street?

21 A. Yeah, I believe so. Usually inmates, when
22 they're getting out of prison would have a -- what
23 you would call a mission; they would be sent on a
24 mission. And they were obligated out there to meet
25 with one another. And usually there was one guy on

1 the street would be in charge -- let's say, for
2 example, the Albuquerque area, if you have
3 individuals in the Albuquerque area, then they were
4 obligated to meet with each other and conduct
5 criminal business, or come up with criminal business
6 in order to send drugs and money back into the prison
7 system.

8 Q. And does the SNM Gang even operate outside
9 the State of New Mexico?

10 A. In the federal system, yes.

11 Q. Now, what about rivals? What rivals do
12 they have?

13 A. In the '80s and '90s their biggest rival
14 was the Los Carnales Gang. At this point, I believe
15 there might be a verbal truce, where there is no
16 violence with one another.

17 One of their main rivals right now is the
18 Burquenos and the Barrio Aztecas.

19 Q. And what happens with rivals; for instance,
20 if you were to see a rival on the street?

21 A. Well, if you see a rival, it would be
22 mandatory that you would assault them or hurt them in
23 some way, I know in the prison system more than on
24 the street. I'm not too sure about the street.
25 Because sometimes, especially nowadays, a lot of the

1 times, you know, they'll sell each other drugs. So,
2 you know, there might not be that big of a rivalry on
3 the streets as it is inside the prison system.

4 Q. Are you aware of there being murders that
5 have been committed for that, and specifically, are
6 you aware -- do you know who Frederico Munoz is?

7 A. Yes, I do.

8 Q. And who is he?

9 A. He is an ex-SNM member.

10 Q. And while he was an SNM member, are you
11 aware of a murder that he committed out on the
12 streets?

13 A. I believe he committed a murder while he
14 was in the county detention center.

15 Q. All right. And you're not aware of the one
16 that -- he committed another one out on the street.
17 Are you aware of that one?

18 MR. SINDEL: Object to the leading form of
19 the question. She's continuing to testify.

20 THE COURT: I think they're fine.
21 Overruled.

22 A. I know an individual that he shot out on
23 the street, yes.

24 Q. Okay. And what was that -- why don't you
25 tell us about that. What was that in reference to?

1 A. That was in reference to -- I believe that
2 he shot Julian Romero. Julian Romero was a high
3 ranking member of the SNM. Julian Romero had ended
4 up dating and going with another high ranking
5 member's -- SNM high ranking member's wife. And
6 that's an unspoken -- well, it's a no-no within the
7 gang. And so it was a retaliation for Gerald
8 Archuleta.

9 Q. And how long has -- so has there been a
10 green light on Julian Romero?

11 A. As long as I've known, there has always
12 been a green light on Julian Romero.

13 Q. Now, the person that put the green light
14 initially, was he at that time in a position of
15 power?

16 A. Yes, he was.

17 Q. Now, what about tattoos? I believe you
18 talked about it earlier in reference to trying to
19 identify them. What kind of tattoos are you familiar
20 with?

21 A. The tattoos that identify SNM?

22 Q. Yes.

23 A. SNM originally used to use the Zia symbol
24 with the S in it, or with the SNM emblem inside the
25 Zia symbol. They've used the number 19, or just the

1 letter S, or the SNM together. As recent as 2010, I
2 believe, they started using that Nahautl numerical
3 Mayan tattoos that symbolized the number 19 for the
4 letter S.

5 Q. I'm going to be marking -- I believe I'm at
6 19. Are you familiar, when people come into prison,
7 I believe you had said earlier sometimes they come
8 from street gangs; is that correct?

9 A. That's correct.

10 Q. Can you explain how that works?

11 A. Primarily, in Albuquerque, it's one of the
12 biggest metro areas in the State of New Mexico, so
13 you get most of your gang members out of Albuquerque.
14 So you had a wide variety of different gangs in
15 Albuquerque by itself. You have the West Side Locos.
16 You have older street gangs like Barelás,
17 Martíneztown, Los Padillas, San José, Brewtown.

18 So you have a wide variety of different
19 street gangs and across the State of New Mexico.
20 Usually, when they come into the prison system,
21 they'll have tattoos on themselves, a representation
22 of their gang, and confirmation when you ask. Most
23 of them are pretty honest and tell you what gang
24 they're from.

25 Q. Now -- and how does that feed into when

1 they go into prison and possibly becoming a member of
2 the SNM, for instance?

3 A. Well, it serves for a better purpose.
4 Because in New Mexico, the prison system only holds
5 about 8,000 inmates, that's to include females. So
6 we're not that big of a prison system, so somebody
7 always knows somebody from an area, or they can vouch
8 for them, as far as who they are or how much work
9 they put in in the street.

10 In the gang life, the more horrible
11 criminal activities that you conducted, the better
12 your stature is inside of a prison, or the better
13 that you're looked at as an all right guy, a credible
14 person to be in the gang.

15 MS. ARMIJO: And Your Honor, at this time,
16 I'm going to move for the admission of Exhibit
17 numbers 19 through 22; 19 and 20 are photographs of
18 Mr. Herrera, and 21 and 22 are photographs of Mr.
19 Baca.

20 THE COURT: Any objection?

21 MS. HARBOUR-VALDEZ: Could you give us the
22 Bates numbers, Bates stamp?

23 MS. ARMIJO: I don't have them on 21 and
24 22. But on 19 and 20, it is 8341 and 8356.

25 MR. DAVIS: Judge, on behalf of Mr.

1 Herrera, with regard to Exhibits 19 and 20, we don't
2 have any objections to their use at this hearing
3 only, but we reserve the right to raise objection
4 later on.

5 THE COURT: Oh, certainly this is just for
6 purposes of the hearing.

7 Ms. Duncan?

8 MS. DUNCAN: And, Your Honor, on behalf of
9 Mr. Baca, we take the same position.

10 THE COURT: All right. We'll admit them.
11 If there are no other objections, Government's
12 Exhibit 19, 20, 21, and 22, and just admit them for
13 purposes of the hearing. Ms. Armijo.

14 Q. Showing first Exhibit 19. Can you explain
15 what we're looking at?

16 A. In the abdomen area of Mr. Herrera he has a
17 Zia symbol, with the letter S in the middle, and I
18 believe the English lettering.

19 Q. And are you familiar with who Mr. Herrera
20 is?

21 A. Yes, I am.

22 Q. And what is your information about him in
23 relationship to SNM?

24 A. He was a street gang member with 18th
25 Street out of Albuquerque. And this I know because

1 he also had a brother that was an 18th Street Gang
2 member out of Albuquerque, that was not an SNM
3 member. But once he came into prison, he became
4 associated and became part of the SNM Gang. And
5 that's part of the tattoo that he would put on
6 himself.

7 Q. All right. So the tattoo that's in the
8 middle here, is that what you're talking about,
9 specifically with the S in the middle?

10 A. Yes. The Zia would represent the State of
11 New Mexico. And the representation of the Zia is to
12 indicate to other gang members that the SNM controls
13 the whole State of New Mexico.

14 Q. Now, you were talking earlier about 18th
15 Street. Are you familiar with this photograph of Mr.
16 Herrera?

17 A. Yes, I am.

18 Q. And what is it that we see that's
19 significant in this photograph, and I'm showing
20 Exhibit 20?

21 A. It's a tattoo of an 18, which would
22 represent the 18th Street Gang.

23 Q. Now, showing Exhibit 21, what is it that
24 we're looking at?

25 A. In the middle, again, in the abdomen, Mr.

1 Baca has in Spanish, "Sindicato de Nuevo Mexico."

2 Q. Okay. And do you see on top? What does
3 that say? Can you read that?

4 A. Barely. Nuevo Mexico Sindicato.

5 Q. And what about this up here? Duke City?
6 Do you know what that's in reference to?

7 A. Yes, that would have referenced that Mr.
8 Baca is from Albuquerque, and that's symbolism that
9 the Burquenos would indicate that they're from
10 Albuquerque.

11 Q. Right. And I'm showing Exhibit 22 now.
12 Can you see that?

13 A. Yes.

14 Q. And what does that indicate?

15 A. That would indicate that -- it's a Zia
16 symbol, I believe.

17 Q. And I can try and --

18 A. Yes, it would have an S in the center of
19 it.

20 Q. Now, in reference to Mr. Baca, I believe
21 earlier you had testified that you were aware that
22 when he came back, he kind of became the leader of
23 the SNM?

24 A. Yes. Well, when he left, he was pretty
25 influential within the SNM.

1 Q. And what was the reason for him leaving?

2 A. The reason for him leaving is that at the
3 time the administration and Corrections decided that
4 they were going to remove who they thought were all
5 the leader heads of the SNM or influential leaders of
6 the SNM.

7 Q. And eventually he was brought back to New
8 Mexico?

9 A. Yes.

10 Q. And since he has been brought, in your
11 capacity with STIU, did you have conversations with
12 him?

13 A. Yes, I did.

14 Q. Okay. And can you describe the nature of
15 the conversations that you had with him?

16 A. When he first came back, I believe he was
17 transferred from the Penitentiary of New Mexico to
18 Southern New Mexico. And because we have known that
19 he was a high ranking member within the SNM, it was
20 important that we, as an STIU unit, talk to him
21 first. So I met him at intake when he came in, and I
22 introduced myself as an STIU officer. And I had
23 known him from before. And he just asked me where
24 his familia was placed at.

25 And at that time, all the SNM Gang members

1 were placed in housing unit 1-A at Southern. They
2 had their own unit. So I had advised him that he was
3 going to be placed there. I also advised him that he
4 would be on an orientation, for a 7-day orientation;
5 then after that, I would come in and talk to him
6 again about coming out in congregate movement.

7 Q. Okay. And when you say "la familia," what
8 did you take that to mean?

9 A. The SNM family, his family, the SNM.
10 Because he had no relatives there. So I've known him
11 for a long time; I know what he was referring to.

12 Q. Did you continue to have conversations with
13 him when you were at the same unit, working STIU,
14 that he was being housed.

15 A. Yeah. On occasion, when there would -- if
16 there was an incident that happened or a situation
17 that might prove to be a security threat issue, I
18 would talk not only to him, but to other members of
19 the SNM in the units. But, yes, I did have
20 conversations with him.

21 Q. I'll be showing you Exhibit 23, which is a
22 photograph, Bates No. 3140.

23 MS. ARMIJO: Your Honor, at this time, we'd
24 move for the Exhibit 23.

25 THE COURT: Any objection to Government's

1 Exhibit 23 coming in on the same conditions, just for
2 the purposes of this hearing, and not for not
3 purposes of trial?

4 All right. Mr. Government's Exhibit 23
5 will be admitted into evidence.

6 Q. Are you familiar with the picture that is
7 in Exhibit 23?

8 A. Yes, I am.

9 Q. And how so?

10 A. I believe one of the STIU officers may have
11 confiscated it or found it in the mail. And I think
12 it was confiscated from Mr. Baca's property.

13 Q. Now, photographs in regard to the SNM, are
14 you familiar with group photographs?

15 A. Yes, I am.

16 Q. Okay. Tell us about that.

17 A. Well, generally, like when SNM was out in
18 general population, before they were separated from
19 the general population, usually when they would take
20 group photographs -- I don't think I ever seen a
21 group photograph of an individual that was not a
22 member of the SNM. So, basically, what we would
23 allow them -- individuals in gangs to do is take
24 photographs. That would give us a better idea of
25 identifying them, but specifically the SNM did not

1 really allow anyone to take a photograph in a group
2 setting that was not SNM suspected or validated
3 member.

4 Q. So unless you were in some way associated
5 with the SNM, you were not allowed to be in group
6 photographs?

7 A. I don't know if you weren't allowed. I've
8 just never seen it. So I would imagine you weren't
9 allowed.

10 Q. Now, in this picture in particular, who is
11 in the middle?

12 A. In the middle of the photo is marked
13 "Anthony Ray Baca."

14 Q. And who is next to him, as you look on the
15 photograph, to the right?

16 A. To the right is Javier Molina.

17 Q. And is that the same Javier Molina that was
18 killed in 2014?

19 A. Yes, it is.

20 Q. And how about the person on the far end as
21 we're looking at in the picture, on the left?

22 A. That would be identified as Daniel Sanchez.

23 Q. Do you know approximately when this picture
24 was taken?

25 A. I believe that was taken right before

1 Anthony Ray Baca was sent back to PNM. So that could
2 have been in 2014; 2013, 2014. So I don't think
3 Daniel Sanchez was up there that long before Mr.
4 Molina was murdered. So it was approximately about
5 right before Mr. Baca was sent back to the
6 Penitentiary of New Mexico.

7 Q. So was there a point in time -- you
8 indicated that you came down to Southern; is that
9 correct?

10 A. Yes.

11 Q. And is that when you had the conversation
12 with him where he said, "Where is my familia?"

13 A. That was the first time that he arrived at
14 Southern. I think that was in 2009.

15 Q. And then, at some point, did he leave
16 Southern?

17 A. Yes. We had -- he had left Southern,
18 because we had gotten information at the time, the
19 STIU unit that is, had gotten information at Southern
20 that there was a possible threat on his life. And
21 the information had come at this time, I believe,
22 from the Penitentiary of New Mexico.

23 So we interviewed him; the coordinator and
24 myself had interviewed Mr. Baca, and advised him of
25 what was happening. And that just err on the side of

1 caution, that he was going to be locked up. But that
2 was something that was coming from the administration
3 at the time, that he was to be locked up.

4 Q. So when you say "locked up," was he moved
5 somewhere else?

6 A. He was moved back to the Penitentiary of
7 New Mexico, I believe, in a segregation unit.

8 Q. And then, at some point, did he make it
9 back down to Southern?

10 A. Yes, he did.

11 Q. All right. And then at some point, did he
12 go back up to the penitentiary?

13 A. Yes. I believe the second time that he
14 went up was right after this photograph was taken.

15 MS. ARMIJO: At this time, I'd move for the
16 admission of Government's Exhibit 24, which is a
17 letter Bates stamped 4476.

18 THE COURT: Any objection to Government's
19 Exhibit 24?

20 MS. DUNCAN: On behalf of Mr. Baca, Your
21 Honor, we have no objection for the purposes of this
22 hearing only.

23 MS. ARMIJO: It is a letter that is
24 authored by Mr. Baca.

25 THE COURT: All right. Any other

1 objections or comments? Government's Exhibit 24 will
2 be admitted into evidence.

3 Mr. Adams?

4 MR. ADAMS: No objection. Just curious
5 about the Bates number.

6 MS. ARMIJO: I'm sorry. I said it earlier.
7 4476.

8 MR. ADAMS: Okay.

9 BY MS. ARMIJO:

10 Q. All right. Are you familiar with Exhibit
11 24?

12 A. Yes, I've seen it before.

13 Q. Okay. Where was the first time that you
14 saw the original version of this?

15 A. The first time I saw the original version,
16 Mr. Baca showed it to me.

17 Q. And where was that at?

18 A. I believe it was at the Penitentiary of New
19 Mexico's North facility.

20 Q. And there is a date on it of 2/7/2014.
21 Would that be approximately when you saw it?

22 A. Yes, that would be about the right time.

23 Q. And did Mr. Baca tell you what the
24 intention of this letter was?

25 A. Well, Mr. Baca felt that he was being

1 segregated unfairly with -- he didn't believe that
2 any of the things people were saying against him were
3 true or were credible. And so I believe this whole
4 thing was in frustration of him being locked down.
5 That's what I remember him conveying in a sense. And
6 that he was writing this letter to the
7 administration.

8 Q. Okay. And who was Jay Roarke?

9 A. Jay Roarke was -- I believe he was the
10 Director of Prisons at the time.

11 Q. And in the beginning it says, "Greetings,
12 in reference to the interview conducted on 2/6/2014,
13 I'd like to inform you that I carefully thought over
14 our discussion, and not only do I agree with your
15 concerns, but I assure you that I will, upon my
16 release from Level 6 confinement" -- and then he
17 gives a series of -- I believe there are four
18 different things that he lists. And so what did he
19 tell you that the purpose of this was?

20 A. I believe he was trying to make a deal with
21 the administration; if they allowed him to go back
22 into population segregation with the SNM units, that
23 he would make sure that that these agreements were --
24 that they were followed, or that he would make sure
25 that this was the agreement.

1 Q. Okay. And is that -- for instance, number
2 2 says, "Call a ceasefire between SNM members and all
3 other STG gang members currently housed at SNM CF
4 Level 4"?

5 A. Correct.

6 Q. Now, going to number 4, it says, "Prevent
7 SNM members from targeting any and all suspected
8 validated SNM members who have or wish to subject
9 themselves to the RPP program." Did you, in
10 particular, have a conversation with him about that
11 offer that he was making to Mr. Roarke?

12 A. Yeah. I think I just made -- I advised him
13 of a correction on it. That was it. And I think he
14 had put RIP. And I said, "That might look bad." So
15 it was actually called RPP. So I just corrected him
16 on what it was called; RPP, not RIP.

17 Q. And what is the RPP Program?

18 A. It's the Restoration Into Population
19 Program, which gang members that denounce or do no
20 longer want to be part of the gang can go into this
21 program.

22 Q. Now, was Mr. Baca sending this to the
23 administration as the leader of the SNM?

24 MS. DUNCAN: Objection, Your Honor; that
25 calls for speculation.

1 THE COURT: Well, we better hear what his
2 opinions are. I'm going to let you all get into
3 where he's getting these opinions, but we better get
4 them out on the table. Overruled.

5 A. Yeah, it was widely known; it wasn't like a
6 secret or anything like that. It was widely known
7 that he was, through interviews and self-admission,
8 that he was the head of the SNM. And, of course,
9 he's not going to write all these things unless he is
10 in charge of the SNM. So, in my opinion, yes, he was
11 writing it as the leader of the SNM.

12 Q. And you actually discussed this letter with
13 him before he sent it to Mr. Roarke?

14 A. I read it.

15 Q. That's what I should say. You didn't
16 discuss it with him. But did he show you the letter
17 before he sent it to Mr. Roarke?

18 A. Yes.

19 Q. And was it contemporaneous when he was
20 writing the letter that you saw it?

21 A. Yes.

22 Q. Now, going back to Exhibit 23, you see Mr.
23 Baca in the middle, right next to Javier Molina, who
24 is later killed?

25 A. Correct.

1 Q. And what's your opinion of the fact that --
2 or I should say, do you find it unusual that Mr.
3 Molina is actually even holding hands with Mr. Baca,
4 it appears, just within a close time to his death, a
5 close time even being a year or two, whenever this
6 photograph was taken?

7 A. Well, if individuals believe that a guy is
8 a rat in the unit, that doesn't mean he's a rat. If
9 they didn't have any paperwork at the time that this
10 photograph was taken, then there wouldn't be nothing
11 to -- there would be no argument as to -- they would
12 have to have what you would call "in black and white"
13 in order to move on him. So my professional opinion
14 is that they didn't have the letter at the time this
15 photograph was taken. So he was a brother or a
16 carnal at the time, in good standing.

17 Q. Okay. Even if somebody -- let's say they
18 suspected him or wanted him to be killed, would that
19 not have happened unless there was paperwork? Does
20 that make sense?

21 A. Yeah. Let's say, for example, that there
22 is some individuals -- if you don't have the
23 paperwork, and there is some individuals saying:
24 This guy is a rat, this guy is no good, I know. And
25 other individuals are saying, No, you can't do

1 something. That's not the way we do -- that's not
2 the way we do things. That's not the way we do
3 business. We have to have it in black and white.
4 And people that are highly influenced will have to
5 say, yes, I believe that this is true after they see
6 the paperwork, and that would be carried out then.

7 But until then, you know, to be fair to
8 Molina, you know, they didn't have no paperwork at
9 the time stating that he was a rat.

10 Q. So there could have been people that -- let
11 me ask it this way: Could there have been people
12 that suspected him of being a rat, who wanted him
13 dead?

14 A. Yes.

15 Q. Prior to this?

16 A. Yes.

17 Q. But what is the trigger that actually gets
18 the green light carried out?

19 A. Well, there has to be paperwork. And then
20 the influential leaders or the key holders or leaders
21 would have to make that decision.

22 Q. Now, are you -- we talked about that. Oh,
23 just how many different ways have you seen
24 "Syndicato" spelled?

25 A. I've seen it spelled with S-I-N and S-Y-N.

1 I've seen it spelled both ways.

2 MS. ARMIJO: And if I could just have a
3 moment, Your Honor?

4 THE COURT: You may.

5 Q. I believe you've stated this. Just so that
6 we're clear, what's your opinion on SNM as far as
7 whether or not they are a prison gang?

8 A. They've been a prison gang for over 30
9 years.

10 Q. And how many members did they have when
11 they had the most members?

12 A. Probably about 500.

13 Q. Has that number gone down?

14 A. Yes.

15 MS. ARMIJO: If I may just have a moment.

16 THE COURT: You may.

17 Q. Now, the opinions that you've given about
18 SNM, I believe earlier you said that you've talked to
19 thousands of inmates in the course of your 14 years;
20 is that right?

21 A. Seventeen.

22 Q. Seventeen, see I'm bad at math, too.
23 Seventeen years with New Mexico Corrections.

24 In reference to the SNM, during the course
25 of time, how many times do you think that you've had

1 an opportunity to talk to SNM Gang members?

2 A. Multiple times. There has been a lot of
3 times; I've talked to a lot of SNM Gang members.
4 More particular on the individuals that -- when we
5 started the Restoration Into Population Program, I
6 was one of the individuals that started that program.
7 So my whole focus within the gang unit was to try to
8 talk as many gang members out of being gang members
9 as possible. That was my whole goal. And if I could
10 get as many SNM members to get involved in that, I
11 would.

12 So we've had over 250 inmates go through
13 that program. And a large population on mostly SNM
14 Gang members. And I debriefed most of those
15 individuals. And I've been able to get a lot of
16 information that corroborates itself as far as gang
17 structure, codes, the inner workings of the SNM.
18 I've also spoken to individuals that are on the
19 streets that were ex-gang members that no longer are;
20 don't see themselves -- have never been to a
21 restoration program, but no longer see themselves as
22 part of SNM, and been able to get a historical
23 breakdown of the SNM as well.

24 Q. What about in addition to those people,
25 either cooperators or people who dropped out, and you

1 indicated that there has been over 250, the majority
2 of those are SNM, so is it fair to say of that
3 category of people, that you've spoken to probably
4 over 200?

5 A. Yes.

6 Q. Now, in addition to that, have you also had
7 the opportunity when people are coming down for
8 orientation, like you spoke earlier about, with Mr.
9 Baca when he came down to Southern?

10 A. When I was at Southern, primarily, I would
11 be the one that talked to them when they were going
12 to orientation, as far as SNM members.

13 Q. Did you talk to, like, Mr. Sanchez when he
14 came through?

15 A. I was no longer at Southern when Mr.
16 Sanchez arrived. I was at PNM, but I did interview
17 Mr. Sanchez before he went to Southern.

18 Q. All right. And so in addition to the
19 orientation, you talk to people just in the regular
20 course of business as far as being in STIU; is that
21 fair to say?

22 A. Yes. One of the things we do is, when they
23 leave the Level 6 system to go to a Level 5 or a
24 Level 4, STIU is required to speak with them. And at
25 that point I did speak to Mr. Daniel Sanchez.

1 Q. And so is it fair to say that you've
2 probably -- or how many -- is it over -- we already
3 counted one group is over 250. Is it in the
4 hundreds, then, of SNM Gang members that you've
5 spoken to?

6 A. Yes. Usually, if they were leaving the
7 Penitentiary of New Mexico and going to Southern, I
8 would have to speak with them, and then make a
9 recommendation to the unit managers or to the
10 administration on whether they should be moved or
11 not.

12 Q. Do you know if SNM has a particular means
13 or methods for murdering inmates?

14 A. The method that I've seen used is
15 strangulation, the most.

16 Q. Have there been other ways, such as
17 stabbing?

18 A. Stabbings, yes.

19 Q. So now I believe you've talked about
20 structure and codes of conduct. All the things that
21 you've testified about, the method of communication,
22 the operations, and the rival gang and the group
23 photographs, all those things, are these opinions of
24 yours -- and we spoke specifically about SNM -- do
25 those things apply, in general, to prison gangs?

1 A. Most of them yes, apply.

2 MS. JACKS: Objection, compound.

3 THE COURT: Overruled.

4 A. I would say that the majority of prison
5 gangs have basically the same type of subculture.
6 The prison gangs, the STGs will operate a little bit
7 different because they have more structure and more
8 rules.

9 Q. All right. So in other words, the STGs,
10 being SNM, is a little more structured than some of
11 the others that have not made it to the level of STG?

12 A. Right. The disruptive groups like
13 Burquenos or the Cruces Boys, they're not as
14 structured or organized with the hierarchy like the
15 SNM. So I guess, in that sense, that would be the
16 difference.

17 Q. And I believe you also spoke a difference
18 earlier about the SNM versus the Mexican Mafia, for
19 instance?

20 A. Right.

21 Q. Now, these opinions of yours, are they
22 based on your personal observations?

23 A. No, I've gone through training with the
24 Bernalillo County Sheriff's Office. I'm a member of
25 the New Mexico Gang Task Force. I've been -- I've

1 talked and been instructed by Al Valdez, who is a
2 leading gang expert in the State of California, who
3 is also a Ph.D. at Cal-Irving (sic); he's written
4 over 13 books and he's one of my mentors. And
5 anytime that I've inquired about gang activity or
6 gang organizations, he's always freely given me
7 advice, or sent me books to read, which I've read
8 four of his books.

9 Q. I guess my question was poorly worded. In
10 addition to learning about gangs and how prison gangs
11 work and various prison gangs, in applying it to the
12 SNM, based on your years of being in Corrections, did
13 you personally see things like the tattoos and the
14 conversations, and the conversations and all those
15 things, does that help with your -- the basis for
16 your opinion as to SNM?

17 A. Yes, it does.

18 Q. And what about, like, recorded phone calls?
19 Have you had opportunity to listen to those?

20 A. Yes, I have.

21 Q. And do you base your opinion on recorded
22 phone calls that you've listened to in reference to
23 SNM Gang activity?

24 A. I do. And my training within the different
25 gangs, and knowing the SNM as long as I have.

1 Q. And intercepted notes?

2 A. Yes.

3 Q. And, for instance, I'm just going to grab
4 this again. Exhibit 18; for instance, I'm going to
5 go to Bates 11316, which is in Exhibit 18, you talk
6 about intercepted notes. Have you ever seen this
7 before?

8 A. Yes, I have.

9 Q. What is it that we're looking at?

10 A. It is a --

11 Q. And if you can't see it, I can bring it to
12 you.

13 A. I believe it's a writing on the Aztec
14 culture, and how -- oh, I'm sorry, now I know what
15 you're -- it's a breakdown of different counties
16 within New Mexico, but they're writing it in the
17 Aztec lettering. And so it looks like it's the start
18 of a plan of a breakdown of counties.

19 Q. All right. Are you aware that that was
20 found in Anthony Baca's cell?

21 A. Yes, I am.

22 Q. Now, I didn't do this earlier, but does
23 this Exhibit 18 have the breakdown, like, for
24 instance, on Bates stamp 11314, it says, "Category D,
25 documents, 5 points." Is that how this file is kind

1 of broken down, where you would have the different
2 categories under its own --

3 A. Right.

4 Q. Documents under each of the categories?

5 A. Correct.

6 Q. And then, for instance, just as an example
7 with this one, 1134 then has memos and documents that
8 were found, including what we were just talking
9 about, which is 11316; correct?

10 A. Correct.

11 MS. ARMIJO: Thank you. Your Honor, I pass
12 the witness.

13 THE COURT: All right. Thank you,
14 Ms. Armijo.

15 All right, let me see. Who wants to start?
16 Do you want Mr. Castle to start, Ms. Duncan?

17 MS. DUNCAN: That's fine.

18 THE COURT: All right. Mr. Castle.

19 EXAMINATION

20 BY MR. CASTLE:

21 Q. Agent Martin, do you know an individual by
22 the name of Dwayne Santistevan?

23 A. Yes, I do.

24 Q. And who is he?

25 A. He's a former STIU administrator.

1 Q. He's no longer employed by the Department
2 of Corrections?

3 A. No.

4 Q. How about Gregory Marcantel?

5 A. Yes, I do. He's a former Secretary of
6 Corrections.

7 Q. Did you ever serve under them?

8 A. Yes, I did.

9 Q. And how long did you serve under them?

10 A. Under Dwayne Santistevan, I believe I
11 served about nine years under him, and Gregg
12 Marcantel, during his time as Secretary of
13 Corrections.

14 Q. And to your knowledge, are they both named
15 victims in the indictment that's before this Court?

16 A. Yes.

17 Q. Agent, what do you believe you are an
18 expert in?

19 A. Gang culture and subculture of gangs.

20 Q. Does that include street gangs?

21 A. Sure.

22 Q. And all across the country?

23 A. I've studied primarily prison gangs around
24 the country, yes.

25 Q. So are you holding yourself out as an

1 expert generally in all kinds of gangs within the
2 United States?

3 A. Primarily within the prison system of New
4 Mexico.

5 Q. Are you confining your expertise to prison
6 gangs within the State of New Mexico?

7 A. Yes.

8 Q. And how long have you been an expert in
9 this area, or at least you have felt that you've been
10 an expert in this area?

11 A. Well, I grew up in a gang-infested
12 neighborhood, so I've been around gang members all my
13 life.

14 Q. Let me stop you there, let me stop you
15 there. So what you're saying is, at least as far as
16 that part, that a person from a gang, the actual
17 gang, would be able to essentially talk about all the
18 kinds of details about a gang that you've discussed
19 today?

20 A. I don't know.

21 Q. Well, we'll just depart for a second and
22 I'll get back to the original question.

23 A. Okay.

24 Q. The tattoos you were talking about, right?

25 A. Correct.

1 Q. How did you learn that those are tattoos
2 that are used by the SNM Gang?

3 A. When I first started at Corrections, the
4 veteran officers explained to me what the SNM tattoos
5 meant, who the SNM members were. And so they kind of
6 gave me a breakdown as part of becoming an officer
7 and learning who was who within the prison system.

8 Q. How did they find out what the tattoos
9 meant?

10 A. I'm sure from time working there. They
11 were also told, maybe some of the gang members told
12 them.

13 Q. Okay. So gang members would know what the
14 tattoos meant?

15 A. Correct.

16 Q. Symbolism that you were talking about in
17 letters and things like that, I guess code words and
18 things like that, that the SNM Gang uses, do you
19 recall testifying about that?

20 A. Symbolism in letters.

21 Q. Yes. Terms they used?

22 A. Different terms that they use.

23 Q. Yes.

24 A. Yes.

25 Q. Where did you learn about that?

1 A. This was information we received from other
2 inmates that were SNM Gang members.

3 Q. Okay. So an SNM Gang member could come
4 into court and tell us all what those symbols mean?

5 A. Well, I learned it from multiple gang
6 members.

7 Q. So you might have to call -- multiple
8 members might be able to discuss it?

9 A. I'm just telling you that's where I learned
10 it.

11 Q. Going back to the expertise. So within --
12 how long do you believe that you -- well, when did
13 you become, in your mind, an expert in the prison
14 gangs in New Mexico?

15 A. Probably after conducting a certification
16 on the California Surenos, getting them certified as
17 a Security Threat Group. And I pretty much have
18 known about gangs for a long time, and I've always
19 went to conferences or classes on gang
20 identification, gang subculture, street terrorism,
21 street gangs.

22 Q. When did you become certified in
23 California?

24 A. I'm sorry?

25 Q. When did you get that certification on the

1 California Sureños?

2 A. 2014.

3 Q. 2014, okay. So would you have been an
4 expert in gangs in 2001?

5 A. 2001?

6 Q. Right.

7 A. I wouldn't call myself a gang expert in
8 2001.

9 Q. The defendants in this courtroom, can you
10 identify which individuals you have personally
11 interviewed?

12 A. I have interviewed -- I believe I've
13 interviewed the majority of them. Perhaps Joe
14 Gallegos, I've never interviewed, or his brother.

15 Q. Did you interview Billy Garcia?

16 A. I interviewed Billy Garcia.

17 Q. When?

18 A. When he was at the Penitentiary of New
19 Mexico, Level 6 system. At that time we had -- I
20 believe Billy was in a segregation unit for
21 protective custody issues.

22 Q. When was that, though?

23 A. It might have been 2012, 2013. I'm not
24 exactly sure when.

25 Q. And did you do a written statement for

1 Mr. Garcia?

2 A. Did I get a written statement from him?

3 Q. Did you produce a written statement?

4 A. I'm sure I did.

5 Q. Do you recall what he said to you?

6 A. Not much.

7 Q. He didn't want to talk to you?

8 A. Pretty much he didn't want to talk.

9 Q. So he wouldn't have -- you wouldn't have
10 interviewed him about his gang membership and things
11 of that nature?

12 A. Well, that was the premises on the
13 interview was to find out why he was in bad standing
14 within the SNM, or perceived to be in bad standing
15 with the SNM. And he offered no comment to that.

16 Q. So no admissions?

17 A. No admissions.

18 Q. What materials did you review in
19 preparation to offer expert testimony in this case?

20 A. Eleven years of serving within the New
21 Mexico Gang Unit.

22 Q. Well, okay, what materials, paper,
23 documents, or audiotapes, or media of any kind did
24 you review to prepare to give expert opinions in this
25 case?

1 A. None.

2 Q. What expert opinions precisely are you
3 giving? Let me kind of explain to you. Agent
4 Martin, you've talked today a little bit about things
5 you've experienced personally and observed
6 personally, right?

7 A. Um-hum.

8 Q. You've talked about things you've read
9 about, such as four books by your mentor?

10 A. On the Mexican Mafia, yes.

11 Q. And other officers' reports and things like
12 that; you've reviewed a lot of things, right?

13 A. Correct.

14 Q. So what I want to try to figure out is what
15 areas are you -- do you have an opinion about that
16 relate to this case and expert opinion about?

17 A. Well, I give law enforcement classes on
18 gangs and the subculture of gangs.

19 Q. Are you going to give an opinion about the
20 guilt of anybody in this courtroom?

21 A. No.

22 Q. Are you going to give an opinion about
23 whether any of these individuals participated in any
24 of the crimes or any aspect of the crimes?

25 A. Am I going to give an opinion if they've

1 participated in crimes?

2 Q. Yes. The crimes that they're charged with.

3 A. Not that I'm aware of.

4 Q. Are you going to be giving an expert
5 opinion that these individuals are all members of the
6 SNM?

7 A. If you're asking my opinion if they're all
8 members of the SNM?

9 Q. I'm not asking if you're going to be
10 offering an expert opinion. Are you going to be
11 offering an expert opinion about their membership?

12 A. If I'm asked if an individual is a member
13 of the SNM, yes, I'll give that opinion.

14 Q. And that will be sometimes based on
15 personal interviews, right?

16 A. We have --

17 Q. Will it sometimes be based upon a personal
18 interview of the individual?

19 A. It will be based on documentation, if they
20 say they're validated or not or if they're a member
21 of that group.

22 Q. So documents that someone else may have put
23 in their file?

24 A. Documents that I have access to, like, for
25 example, the Criminal Management Information System,

1 which would indicate whether they're a gang member or
2 not.

3 Q. And who would put the information into that
4 system?

5 A. Whoever is interviewing them.

6 Q. Would it be someone that was conducting an
7 investigatory interview of that individual?

8 A. I've entered individuals into the system
9 that have admitted to me that they're gang members,
10 yes, and then started.

11 Q. If we're looking at a printout of that
12 system, are we going to whatever the screen shot? I
13 take it it's a computerized program?

14 A. Are you going to look at it?

15 Q. Let's back up. Is that a computerized
16 program you're talking about?

17 A. Yes.

18 Q. And can you look at it on the screen and
19 determine if someone is a gang member?

20 A. Yes, it's part of my job, yes.

21 Q. And when you look at that screen, there is
22 data that populates the screen; is that correct?

23 A. Correct.

24 Q. And when you look at that data, does it
25 indicate who input it?

1 A. Yes.

2 Q. So each item that's inputted has the
3 individual who put it in?

4 A. Correct.

5 Q. Now, did you review any particular
6 materials -- as opposed to your life experiences --
7 any particular materials to prepare to be an expert
8 in this case?

9 A. Just my experience within the gang unit and
10 all the training that I've had.

11 Q. So you weren't shown, for example, STIU
12 packets on the defendants that are here today?

13 A. No.

14 Q. Specifically with regard to Mr. Garcia,
15 Billy Garcia?

16 A. No.

17 Q. Have you personally observed him involved
18 in gang activities?

19 A. No.

20 Q. Have you personally overheard him say he
21 was a member of the SNM Gang?

22 A. No.

23 Q. Were you in Southern New Mexico
24 Correctional Facility in 2001?

25 A. No, I was not.

1 Q. How about the Penitentiary of New Mexico?

2 A. No.

3 Q. How about in 2000, for those facilities?

4 A. No.

5 Q. Now, I notice on your resume that you
6 indicated that you are currently, and have been since
7 2015, a member of an FBI Task Force; is that correct?

8 A. That's correct.

9 Q. And what task force is that?

10 A. The task force was an investigation into
11 the California Surenos.

12 Q. Tell me about this FBI Task Force, if you
13 could. Are they just FBI people or a group of
14 agencies that are represented?

15 A. I believe there are different agencies. In
16 particular, we were working with the FBI, the
17 Corrections Department. The STIU was working with
18 FBI on the California Surenos at the time.

19 Q. In the time that you've been working for
20 New Mexico Department of Corrections, has there been
21 an ongoing relationship between New Mexico
22 Corrections and the FBI?

23 A. I'm sure there has.

24 Q. I think you said earlier that, in 1998, is
25 when the Security Threat Intelligence Unit was

1 formed; is that right?

2 A. Yes. It was a pilot program at the time.

3 Q. And when did it go from being a pilot
4 program to -- I guess -- what did it become after it
5 was a pilot program?

6 A. An official unit.

7 Q. When did it become an official unit?

8 A. I believe that was in 1999 to 2000.

9 Q. Now, you had indicated on your resume that
10 you obtained a certification in the Surenos; is that
11 right?

12 A. Yes. What I did was a two-year
13 investigation into -- the California Surenos at the
14 time were a disruptive prison group. And at the time
15 we had enough evidence to certify them as a Security
16 Threat Group. So it took about two years into that
17 investigation.

18 Q. So were the Surenos certified, or did you
19 obtain a certification, or both?

20 A. Once we conduct our investigation, all the
21 paperwork is turned in to the STIU administrator, all
22 the way up to the Director of Prisons, to the
23 Secretary of Corrections. And if they agree that we
24 have all the evidence necessary to certify them, then
25 the Secretary of Corrections signs off on the

1 certification.

2 Q. So when you put down two years
3 certification of the Surenos, you mean --

4 A. It's an investigation.

5 Q. It's hard for them to take down when we're
6 both talking. The certification of the Surenos, not
7 your certification; is that right?

8 A. Yes. It was a certification into the gang,
9 the prison gang, California Surenos.

10 Q. Is there any process by which a gang -- a
11 person who wants to be a gang expert can get
12 certified or, you know, get a degree or something
13 like that?

14 A. I believe that you have to be able to give
15 gang presentations to law enforcement entities, which
16 I've done. I have also given them to the FBI. I
17 also give them to Homeland Security. Also to law
18 enforcement academies. Also to our own academy. So
19 under that criteria, I think.

20 Q. But would I be correct in saying that there
21 is no degree that you have to obtain to become a gang
22 expert; is that --

23 A. Well, if there is, nobody has given me one
24 yet.

25 Q. Is there a certification process by which

1 an entity or a body of your peers certify or accept
2 you as a gang expert or something of that nature?

3 A. Well, I've given gang presentations,
4 probably about eight or nine presentations. During
5 this time, I've never had anybody rebut or say that
6 any of the things that I'm saying is incorrect.

7 Q. How many times have you testified?

8 A. Twice.

9 Q. And twice prior to today?

10 A. I testified one other time in the Sureno
11 case. And I've testified on an SNM case once.

12 Q. And those cases, I take it those are
13 criminal cases?

14 A. The Sureno case was a case that was filed
15 in Federal Court. I believe it was in the RLUIPA.
16 And the --

17 MR. DAVIS: I'm sorry, Judge. I didn't
18 hear that answer.

19 A. I believe it was a religious right, where
20 they filed a habeas on a religious right.

21 Q. Was that here in New Mexico?

22 A. Yes.

23 Q. It was a civil suit; is that --

24 A. I believe, yes. It might have been a civil
25 suit.

1 Q. And then what was the other case?

2 A. The other case was an SNM member that had
3 filed a habeas to return back to the SNM unit, which
4 he claimed he was in good standing. But we have
5 evidence to oppose that.

6 Q. And was that individual representing
7 himself?

8 A. No, he had counsel.

9 Q. During those two proceedings no one from
10 either of those cases contested your qualifications
11 as an expert?

12 A. No.

13 Q. I guess what I'm trying to get at, is there
14 an organization like, I don't know, the American
15 Association of Gang Experts, or something like that,
16 that will look through someone's qualifications and
17 say: You have reached the level that you are now an
18 expert? And the reason I'm asking you that, kind of
19 like a doctor gets a Ph.D., is there something that
20 you have to do to become a prison gang expert?

21 A. I'm a member of the New Mexico Gang Task
22 Force.

23 Q. So are all people that are members of that
24 gang experts?

25 A. I don't know.

1 Q. What are the requirements to become a
2 member of that group? Can I be one? Can I go in
3 there?

4 A. I don't know.

5 Q. So you don't know what the requirements are
6 to join that?

7 A. I don't. Give gang presentations, I guess.

8 Q. Is there any database of gang information
9 that we could access, that we'd be allowed to access,
10 defense lawyers, where we could verify the accuracy
11 of the information that you're giving an expert
12 opinion about?

13 A. I don't know.

14 Q. Well, for example, let's take a look at --
15 let's take the tattoos. Is there a book of tattoos
16 or something like that, or a document that lists:
17 Here are all the tattoos, that is what they mean,
18 this is what gang they're members of they represent?

19 A. Yeah. I'm sure if you go into the search
20 engine on your computer you could find all that stuff
21 out. On the internet, for example, different prisons
22 will put or different law enforcement entities will
23 put prison gangs, their tattoos, their symbolism,
24 what they represent, who their enemies are, and
25 different things like that. So, yeah, sure you

1 could.

2 Q. Are these peer-reviewed materials?

3 A. Peer-reviewed?

4 Q. Peer-reviewed.

5 A. They're open to the general public. You
6 can look them up on the internet.

7 Q. So, to your knowledge, the only review is
8 how many, perhaps, times it's been visited on the
9 internet?

10 A. Well, the credibility would be who put them
11 on there.

12 Q. You talked today a little bit about your
13 interviews of a lot of different gang members that
14 are inmates at the New Mexico Corrections; is that
15 right?

16 A. Correct.

17 Q. When you do that interview, those
18 interviews, did you identify yourself as a
19 corrections official?

20 A. I have a shirt on that would say "STIU."
21 It's pretty widely known that I'm an STIU officer.

22 Q. When inmates are given orientation, are
23 they told what an STIU officer is?

24 A. I introduce myself.

25 Q. Okay. And so do the inmates basically know

1 that you guys are all law enforcement officers, all
2 the STIU people?

3 A. They know we're part of the gang unit, yes.

4 Q. And that you have the ability, as a member
5 of the gang unit, to change their classification, if
6 it's deemed necessary?

7 A. We can't change their classification.

8 Q. Or provide input that might change their
9 classification?

10 A. Some are; maybe some aren't, depending on
11 what the conversation is about, depending on what the
12 interview is.

13 Q. Well, let me put it in more common terms.
14 Did inmates consider STIU officers the cops?

15 A. They consider us the gang unit.

16 Q. Okay. Are you considered law enforcement?

17 A. I don't know. I suppose.

18 Q. Now, you've talked to how many SNM members
19 over the years -- different, not the same ones -- but
20 how many different SNM members over the years?

21 A. I couldn't really put a number on that.
22 But it's been plenty, plenty.

23 Q. Over 100?

24 A. Yes.

25 Q. So would you go out on a limb to say a

1 motto of "no snitching" doesn't really work with the
2 SNM?

3 A. If you were to put a snitch in the pod with
4 the regular SNM members, I think that motto would
5 work.

6 Q. Well, it sounds like a lot of SNM members
7 talk to you about the SNM, their activities, and what
8 other SNM members do. Is that fair to say?

9 A. In confidence, yes.

10 Q. So is snitching only considered telling on
11 somebody in front of them, or is it also considered
12 when you're telling on someone in confidence?

13 A. Correct.

14 Q. Both ways, right?

15 A. I would imagine it's both ways. But the
16 way it works in prison is, if an individual is found
17 out to have given information about the gang, he's
18 considered a snitch.

19 Q. When these individuals would talk to you,
20 the members of the SNM, and they'd talk to you, would
21 you tell them that you'd keep it in confidence?

22 A. Of course.

23 Q. Would you tell them why you wanted this
24 information?

25 A. It's up to them. If they want to tell me

1 in confidence, and they'll be forthright about
2 whether they want to tell me something in confidence
3 or not.

4 Q. How do you start these interviews, just
5 generically?

6 A. Depending on what the conversation is
7 about. If it's about a fight, we'll discuss the
8 fight. We'll discuss the individuals that got in a
9 fight. We'll discuss how -- what the mood of the pod
10 is. We'll discuss if there are other individuals
11 that are in harm, or why the fight occurred. It all
12 depends. There is a lot of variables to what the
13 interview would be about.

14 Q. Would some of these individuals be
15 interviewed particularly by you, because they'd
16 asked, for example, to be removed from general
17 population?

18 A. If someone has requested to speak with me
19 on the topic of being removed for their own
20 protection, yeah, it would be in confidence, of
21 course, also.

22 Q. Would sometimes these SNM Gang members come
23 to tell you things to perhaps get a rival in trouble?

24 A. That's not really how they work.

25 Q. They never tell on each other to get each

1 other in trouble?

2 A. There is a different type of honor system
3 that works within the prison gangs. And so I'm not
4 saying it wouldn't happen. But I don't see that as
5 something that would be something that they would
6 normally do to try to get a rival in trouble.

7 Q. Well, when these confidential sources have
8 come in and talked to you, do they always share with
9 you their purpose in coming to talk to you?

10 A. Well, yes.

11 Q. And you always believe everything they say?

12 A. Well, I'd be an idiot if I did that.

13 Q. So would it be fair to say it's very
14 difficult to determine what the reasoning or the
15 purpose is when one SNM member informs on another?

16 A. If I get what you're asking me correctly,
17 is if somebody comes in confidence and says something
18 about another individual, am I going to corroborate
19 that information, to make sure that what he's saying
20 is the truth, or to ascertain what his motive is for
21 telling me that information, of course, I'm not going
22 to put anybody's life in jeopardy because somebody is
23 telling me something that may not be true.

24 MR. CASTLE: Is there a way to connect my
25 laptop? Judge, I apologize, but the printer was not

1 working downstairs.

2 THE COURT: Mr. Martin is asking to use the
3 restroom. Let's take a little bit early break. Does
4 that work for you?

5 MR. CASTLE: That works for me, Your Honor.

6 THE COURT: All right. So we'll be in
7 recess for about 15 minutes.

8 MR. CASTLE: All right.

9 (The Court stood in recess.)

10 THE COURT: All right. We'll go back on
11 the record. Mr. Martin, I remind you you're still
12 under oath.

13 THE WITNESS: Yes, sir.

14 THE COURT: Mr. Castle, if you wish to
15 continue your cross-examination of Mr. Martin, you
16 may do so at this time.

17 MR. CASTLE: Thank you.

18 Q. Exhibit 18, I think you've indicated is an
19 STIU packet for Mr. Baca; is that right?

20 A. That's correct.

21 Q. And there would be a similar kind of packet
22 for everyone that's a defendant in this case?

23 A. Everyone that's gang affiliated, yes.

24 Q. I'm looking at page 1. Are you able to
25 tell from that document who entered the data on page

1 1?

2 A. No.

3 Q. I want to turn to page -- the third page of
4 that exhibit, which doesn't have a number on it --
5 but is this a checklist of criteria that is used by
6 the Department of Corrections to determine whether
7 someone is a gang member?

8 A. Yes.

9 Q. When was that set of criteria developed?

10 A. I really don't know.

11 Q. When is that sheet -- when was that put
12 into Mr. Baca's file?

13 A. I believe when he returned back from the
14 Nevada Department of Corrections.

15 Q. So would this date here, May 13, 2011, be
16 the date that it was produced?

17 A. I believe that's probably when someone
18 reviewed it.

19 Q. And it contains certain areas that have
20 been checked off; is that right?

21 A. Correct.

22 Q. When I look at this document, there is --
23 there are certain areas. User: What does "user"
24 mean?

25 A. That would indicate that the user is the

1 one that put the information in.

2 Q. And is this an ongoing database that
3 continues to be updated through time?

4 A. Yeah. Let me just clarify. When Anthony
5 Ray Baca left to Nevada, this document wasn't in use
6 at the time. So when he came back, that's when --
7 that's why it was entered like this in 2008.

8 Q. Now, I want to show you a packet which we
9 received in the discovery, and was represented as
10 Mr. Billy Garcia's STIU packet. Okay?

11 A. Okay.

12 Q. Sorry I couldn't print it out, the printer.
13 Okay. I believe the Government will
14 stipulate to this as the packet that was provided to
15 us in discovery.

16 MS. ARMIJO: Well, I don't know how far
17 into it that is, but I do know this particular screen
18 shot was provided.

19 MS. DUNCAN: I'm sorry to interrupt Mr.
20 Castle. Can you give us the Bates number?

21 MR. CASTLE: Yes. It begins on page 9557,
22 and continues to 9744.

23 MS. DUNCAN: Thank you.

24 Q. I'm going to turn to page 3. What is this
25 document right here? Tell me if you need me to

1 scroll up or down.

2 A. I believe that's an STIU audit form.

3 Q. And who puts this information in?

4 A. Whoever audited the file.

5 Q. Are you able to tell that by looking at the
6 document? Would that be Adam Vigil, the auditor?

7 A. Correct.

8 Q. What's an auditor?

9 A. He would be the individual that went
10 through his file to find that everything is still
11 current, all the information is current, or he hasn't
12 denounced or -- it's to find out if he's still a
13 validated member.

14 Q. So they go through the file, read it, and
15 audit what's in the file?

16 A. Yes.

17 Q. So the next page, page 4, now, is this the
18 same kind of document that we saw in Exhibit 18, page
19 3? In other words, is it a set of criteria as
20 applied to Mr. Garcia?

21 A. Yes.

22 Q. And so if we look here, there is a box for
23 self-admission. Do you see that?

24 A. Yes, I see that.

25 Q. Is that checked off?

1 A. No.

2 Q. What does that mean?

3 A. That he didn't self-admit.

4 Q. Okay. There is tattoos. Do you see that?

5 A. Yes.

6 Q. Is that checked off?

7 A. No.

8 Q. What does that mean?

9 A. That means that they didn't see any tattoos
10 that were affiliated with the SNM Gang, or any gang.

11 Q. So I won't go through all of them, but I'll
12 go through the ones that are checked. Number 6 is
13 authorship. Do you see that?

14 A. Yes.

15 Q. When was the last time that -- well, is
16 there a comment about authorship?

17 A. The comment would say that there was a
18 letter that was found in his property, most likely
19 that he authored.

20 Q. On February 19 of 1999; is that right?

21 A. If that's when he wrote it, yes.

22 Q. So okay. And then the next one is group
23 photos. It appears there is a group photo in 1998;
24 is that right?

25 A. Correct.

1 Q. And then the next one that's checked is
2 contacts. What's contacts?

3 A. The individuals that he contacts or
4 associates with.

5 Q. If they're seen together out in the yard?

6 A. Or maybe he's written letters to them.

7 Q. Okay. And again, that's from July of 2001;
8 is that right?

9 A. Yeah. This one indicates that he received
10 or was the author or he received the letter from --

11 Q. I apologize. That wouldn't be 2001; it's
12 actually from April 4 of 1999.

13 A. Correct.

14 Q. And then the next one is CI information
15 from January 14 of 2000?

16 A. Correct.

17 Q. What is CI information?

18 A. Confidential information received.

19 Q. From another inmate?

20 A. Or from -- yeah, it could be an inmate, or
21 from -- yeah, most likely, it would be another
22 inmate.

23 Q. You don't need to keep the identities of
24 investigators anonymous, do you?

25 A. Correct. That's what I was saying.

1 Q. And then other agencies, there is another
2 indication from 1998?

3 A. Correct.

4 Q. So is there anything from 2001 that is on
5 that checklist?

6 A. From 2000 what?

7 Q. 2001.

8 A. It looks like they were all entered in
9 2001.

10 Q. They're entered, but I'm talking about the
11 date of any information concerning gang. Was there
12 anything under the column comment, do you see 2001?

13 A. You're saying that -- there was letters
14 found in there. They entered letters that were
15 written in 1999, and in turn in 2001; is that what
16 you're saying?

17 Q. Is that all the information that's on here
18 is from 1998, 1999, and 2000, on Mr. Garcia?

19 A. That appears so.

20 Q. And anything since 2000, the last 17 years?

21 A. I don't know how long he was out before he
22 returned back into prison.

23 Q. But is there any information in the last 17
24 years?

25 A. On what you're showing me, no.

1 Q. Okay. Are inmates informed that they
2 they're identified as a particular member of a
3 Security Threat Group?

4 A. Yes.

5 Q. And are they given an opportunity -- how
6 are they notified of that?

7 A. With a questionnaire.

8 Q. Well, let me show you -- once again, it's
9 page 9, which would be discovery page 9605. Is this
10 a notification to Mr. Garcia?

11 A. It appears it is.

12 Q. And do you see that it indicates that he
13 was classified as a STG member, January 20, 2003?

14 A. Correct.

15 Q. But he's not provided the copy of it until
16 January 15 of 2008, five years later?

17 A. At the time that this interview was done,
18 he was able to view the document. And if he didn't
19 ask for a copy, then I'm sure one wasn't provided.

20 Q. Okay. So on January 15 of 2008, he was
21 provided with a copy and asked to sign it, and he
22 refused to sign it?

23 A. That was probably at the time that he
24 returned back to prison.

25 Q. Okay. So the answer is yes?

1 A. Yes.

2 Q. Now, is the purpose in informing or
3 notifying an individual that the Department of
4 Corrections considers them an STG member, is that
5 purpose to give them an opportunity to request a
6 hearing or any kind of due process to contest that
7 label?

8 A. I believe that they can write to the STIU
9 administrator and request a hearing to review it.

10 Q. Let's look back at the notice again. Does
11 the notice inform them that they have any ability to
12 contest that determination, other than to check a box
13 saying: I'm currently an active member or an
14 inactive member?

15 A. Yes.

16 Q. Yes, there is?

17 A. Are you asking if there is a box that
18 indicates whether they're active or inactive?

19 Q. Yes.

20 A. There is a box saying that they're active
21 or inactive.

22 Q. Is there any indication anywhere where you
23 can contest your designation in any other form other
24 than checking a box?

25 A. During the interview, he has the right to

1 contest it. And it would be written.

2 Q. Now, when you talked about some of the ways
3 that an individual is classified is by the letters;
4 is that correct? You look at a letter, and determine
5 that it's between two SNM Gang members, and somehow
6 that gets into their different packets, saying that
7 they've having gang communications?

8 A. If there is gang business communication.

9 Q. How are you able to determine who authored
10 the letters?

11 A. They write their name on it.

12 Q. Sometimes they say: This is from Billy
13 Garcia, right, for example?

14 A. Well, yeah, and his inmate number, and
15 where he's housed.

16 Q. Okay. I want to show you another document
17 from Mr. Garcia's file, which is page 9641. And I
18 want you to review this for a second. If you've
19 gotten halfway, that's enough.

20 So this document basically indicates that
21 some member of the staff of one of the facilities
22 opened a letter addressed from what appeared to be
23 Anthony Padilla, to Toni Padilla. But this staff
24 member renders an opinion that the handwriting of the
25 contents of it was for a Gerald Archuleta; is that

1 right?

2 A. That's what it states.

3 Q. So does the Department of Corrections have
4 handwriting experts available to them in the building
5 to be able to analyze handwriting?

6 A. Not that I'm aware of.

7 Q. In regards to gang symbols, is there any
8 specific methodology that you're aware of that the
9 Department of Corrections uses to interpret symbols
10 associated with a gang?

11 A. Such as SNM?

12 Q. Yeah. Is there any methodology that's
13 applied to that?

14 Let me back up. Let me give it to you a
15 little bit differently. Has the Department of
16 Corrections assessed everyone for a period of time at
17 the prisons who had that Zia symbol, or whatever the
18 name of it was, the symbol, and verified that every
19 one of the people that have that are an SNM Gang
20 member? And that -- okay I'll stop there. Have they
21 done that?

22 A. Not if I'm hearing you correctly, not
23 everyone that has a Zia symbol is an SNM Gang member.

24 Q. What percentage do?

25 A. At this point, I couldn't answer that.

1 Q. So not everyone that has a Zia symbol is an
2 SNM Gang member, right?

3 A. Correct.

4 Q. And not everyone who is an SNM member has a
5 Zia symbol?

6 A. Correct. They usually, when they put a Zia
7 symbol, they'll put a letter in it which would
8 indicate -- that's what makes the difference.

9 Q. When you say "usually," how often is that?
10 Is that 9 out of 10; 7 out of 10? Can you quantify?

11 A. I don't remember ever seeing an SNM Gang
12 member with a Zia symbol that didn't have "SNM" or
13 the letter "S" in it.

14 Q. So that's based on your personal
15 observation?

16 A. Yes.

17 Q. Are you aware of any data that the
18 Department of Corrections keeps on this particular
19 area that you're testifying about?

20 A. I'm not, unless administration does.

21 Q. Are you aware of instances in which someone
22 has been identified by the Security Threat
23 Intelligence Unit as a gang member and they weren't a
24 gang member? Do you guys ever make mistakes?

25 A. Yes.

1 Q. What's the percentage of that, the error
2 rate?

3 A. It's pretty low.

4 Q. Ballpark, 10 percent, 5 percent, 9? Do you
5 know?

6 A. I couldn't say, because if I'm working at
7 the Penitentiary of New Mexico, and I noticed a
8 mistake, then I would have to say 1 in 700. But I
9 can't say for across the state, because I don't keep
10 those stats.

11 Q. So does the State keep those stats?

12 A. I don't know.

13 Q. So you're just saying you've made that
14 mistake maybe 1 out of 700 times?

15 A. No.

16 Q. Okay. How often? Well, are you aware of
17 anyone's error rate other than your error rate?

18 A. I don't have an error rate. I'm sorry, I
19 was giving you an analogy.

20 Q. Okay. How often -- we'll move on.

21 The SNM, in general, does it have different
22 factions?

23 A. What do you mean by "different factions"?

24 Q. Well, different groups within the SNM.

25 A. Do they have different leaders within the

1 SNM?

2 Q. Yes.

3 A. Yes.

4 Q. And do all those leaders work together, or
5 do they, at times, act at odds with each other?

6 A. I'm sure they act at odds against each
7 other at times. But overall, as a whole, they act
8 together.

9 Q. Okay. Well, what are -- are there dtheir
10 subgroups for the SNM?

11 A. Subgroups?

12 Q. Yes.

13 A. Not that I'm aware of.

14 Q. Have you ever heard of the All Stars?

15 A. Yes.

16 Q. And what are they?

17 A. They're a group that doesn't exist.

18 Q. Okay. No long exist or never existed ever?

19 A. I believe they tried to exist, but it was
20 short-lived. It was really never established.

21 Q. So there was never a group of SNM members
22 that held themselves out as the All Stars?

23 A. I believe that was an attempt that didn't
24 go anywhere.

25 Q. And what was the attempt to do? What were

1 they attempting to do?

2 A. They were attempting to recreate the SNM.

3 Q. Were they trying to recreate it under a
4 different leader than the existing leader?

5 A. Correct.

6 Q. And who would have been the head of that
7 group?

8 A. I'm not sure.

9 Q. Okay. Are you familiar with an individual
10 by the name of Gerald Archuleta?

11 A. Yes.

12 Q. Was he the head of that, I guess, splinter
13 group that tried to be formed, called the All Stars?

14 A. No.

15 Q. Who was, if you recall?

16 A. My best recollection would probably be an
17 individual by the name of JR Torrez.

18 Q. JR Torrez? I'm sorry?

19 A. Junior Torrez.

20 Q. And when did that happen? When did this
21 splinter group attempt to form?

22 A. I believe this was probably in the '90s,
23 the late '90s.

24 Q. Are you familiar with the term Old Timers?

25 A. Yes.

1 Q. And what does that term mean?

2 A. That means the veteran -- a veteran group,
3 veteran individuals, if you're talking about inmates.

4 Q. When did they exist?

5 A. I think they all just -- are you making
6 reference to a name or an organization?

7 Q. Is there a group of SNM members that were
8 either identified by STIU or by themselves as, quote,
9 the "Old Timers," end quote?

10 A. No. Within the SNM, the Old Timers are
11 probably individuals that are probably no longer in
12 prison, and probably just retired out of the SNM and
13 probably are no longer active members within the
14 organization, or don't have that same influence
15 within the group.

16 Q. Billy Garcia over here to the left, is he
17 an Old Timer?

18 A. I would consider him an Old Timer, yes.

19 Q. And are you aware, is he still a member of
20 the SNM? Do you have any personal knowledge of that?

21 A. I believe he's still a member of the SNM.

22 Q. What do you base that on?

23 A. Individuals that I have interviewed.

24 Q. Have you ever interviewed an individual by
25 the name of Jerry Montoya?

1 A. I've spoken to Jerry. I don't think I've
2 ever interviewed him.

3 Q. When you spoke to him, what did you speak
4 to him about?

5 A. Just in generalization, to see how he was
6 doing, if he was okay; if -- how his family was,
7 different things like that. But it wasn't an
8 interview.

9 Q. You were talking about how members could
10 leave the SNM. They could exit it because of their
11 religion?

12 A. Right.

13 Q. And that's by becoming a Christian. Do you
14 recall that?

15 A. Yes, sir.

16 Q. I want to show you a document. Let's see
17 if this assists you in any fashion.

18 Do you recall the Department of Corrections
19 obtained information that Mr. Garcia had walked away
20 from the SNM to pursue Christianity? When you go to
21 the first page.

22 A. I wasn't aware of Mr. Garcia. But I was
23 aware of Ernest Guerrero.

24 Q. And, in fact, the founder of the SNM, Juan
25 Baca did; is that right?

1 A. After he got out of prison, yes.

2 Q. So is it your testimony today that the SNM
3 is one organization without any subgroups within the
4 organization?

5 A. Yes.

6 Q. And it's your testimony that the various
7 leaders are all -- they all work together
8 cooperatively?

9 A. I don't know to what extent they cooperate,
10 but overall, yes, they work together.

11 Q. You indicated that you talked to Mr. Garcia
12 when he was in administrative segregation in 2013.
13 That was your memory?

14 A. That might be true. I think so.

15 Q. Give or take a year?

16 A. Yes, give or take a year. Before he left
17 prison.

18 Q. What was he in administrative segregation
19 for?

20 A. I believe we had gotten confidential
21 information that his life would be in danger if he
22 was in congregate movement with the other members of
23 the SNM that were active.

24 Q. Do you recall that it was that Gerald
25 Archuleta had put out a green light to murder

1 Mr. Garcia?

2 A. I knew that there was a disagreement
3 between Mr. Garcia and Mr. Archuleta while they were
4 in the county jail, yes.

5 Q. So when you say that the group works
6 together, they don't have subgroups, how do you
7 explain that a person like Mr. Archuleta, who put out
8 a hit or a green light on someone else, such as
9 Mr. Billy Garcia?

10 A. He was in charge of the SNM at the time.

11 Q. So I think you said earlier that the only
12 way you get out of the SNM is either through death or
13 becoming a snitch, or becoming a Christian; is that
14 right?

15 A. That was one of the earlier ways that they
16 did business, yes.

17 Q. And when did that end?

18 A. It seemed to change a lot more in the early
19 2000s.

20 Q. Okay. So did the gang itself kind of
21 change? How did it change? How did the gang change?

22 A. Probably a new generation of individuals
23 that were coming into the gang.

24 I believe the gang started getting more
25 hooked on drugs, heroin, and started doing a lot more

1 heroin. There was a lot more individuals that were
2 influential that were giving individuals passes.

3 Q. "Passes" being --

4 A. "Passes" being that they shouldn't be
5 touched -- or let's say, for example, if a guy was
6 not in good standing, but he was bringing in a lot of
7 drugs, they would give him a pass because he was
8 bringing in a lot of drugs and money for the
9 organization.

10 Q. Would this have been around 2002, 2003, in
11 that time period?

12 A. That's probably the beginning of the
13 decline on that.

14 Q. So the leadership of the SNM -- I think
15 you've said a few things, and I just want to break it
16 down.

17 A. Sure.

18 Q. The leadership kind of changed to younger
19 guys -- is that right -- around that time?

20 A. I think the younger soldiers, and
21 individuals that were leading the SNM at the time
22 probably had a different philosophy.

23 Q. So then the "different philosophy" meaning
24 that they ran things differently than the older
25 group; is that right?

1 A. Correct.

2 Q. And they had different, perhaps, goals such
3 as distribution of drugs?

4 A. Correct.

5 Q. So they had different methods, different
6 goals, and different leaders? Would that be fair to
7 say?

8 A. Yes. It changed, simply because they were
9 now in segregated congregated movement, other than in
10 population setting with other individual inmates.

11 Q. I want to talk to you a little bit about
12 this photograph. You were talking about separated --
13 I think you just said segregation; is that right?

14 A. Segregated population.

15 Q. So when did that start?

16 A. I believe after the murders in 2001.

17 Q. Okay. So in 2001, before the murders, they
18 did not -- did they have a prison that housed SNM
19 members?

20 A. I believe all the prisons housed SNM
21 members.

22 Q. How about Southern New Mexico Correctional
23 Facility?

24 A. Yes.

25 Q. Was that the predominant location of

1 members who were not in PNM?

2 A. I'm not sure what you're saying.

3 Q. Did they house a majority of SNM members
4 who were not in PNM at Southern New Mexico
5 Correctional Facility?

6 A. There was a large amount of SNM members at
7 Southern, yes.

8 Q. I want to talk to you a little bit about
9 phone calls. You've listened in on phone calls
10 various gang members have made; is that right?

11 A. Correct.

12 Q. And you've heard them use terms -- I think
13 you used some like "Michael Jackson"?

14 A. Correct.

15 Q. How do you determine "Michael Jackson,"
16 that that phrase means heroin?

17 A. I didn't determine that right out. I
18 didn't say, Well, you know, this means Michael
19 Jackson. It's a breakdown of interviews with inmates
20 and confidential informants that will eventually tell
21 you that that's what they mean. So that's how we get
22 the meaning.

23 Q. So a gang member could tell you that
24 "Michael Jackson" means heroin?

25 A. And it would make sense within the content

1 of what we were listening to.

2 Q. So the source of the information would be,
3 number one, the tape, or what you're hearing?

4 A. Correct.

5 Q. And then you'd also use a source which was
6 an inmate or inmates?

7 A. Correct.

8 Q. And they would tell you what that term
9 meant. And then you go back and listen to it, and
10 then it would make sense to you?

11 A. Yes.

12 Q. So when that happens, what expertise do you
13 have to apply to do that, other than the ability to
14 listen?

15 A. Well, when we find that individual with
16 heroin, it would usually indicate that that was
17 corroborated truth.

18 Q. Okay. So if that happens and you find them
19 with heroin --

20 A. So that source becomes credible.

21 Q. Okay. So that would be personal
22 observations, that you observed someone with heroin,
23 right?

24 A. Well, we're conducting the investigation.
25 If what the source has told us becomes credible,

1 then, yes.

2 Q. Well, let me just ask a different way.

3 Assume for the moment I have no expertise. I mean
4 someone on the street that's not an expert and had
5 any training in prison gangs, right? Would they be
6 able, if they were given the phone call and listened
7 to it, and got the interview of the gang member
8 saying "Michael Jackson" means heroin, would they be
9 able to go back and listen to that phone call and
10 make sense of it?

11 MS. ARMIJO: Objection; calls for
12 speculation.

13 THE COURT: Well, I think he gets to
14 explore what the basis of these opinions are. So I'm
15 going to allow it.

16 A. I'm basing my opinion on my experience in
17 training within the gang unit. I cannot say whether
18 a normal person would come to that conclusion, that's
19 never had any training in gangs.

20 Q. And so under that situation -- let's go
21 through this for a minute -- if you were to come into
22 court and testify that on a particular phone call you
23 heard "Michael Jackson." You interviewed an inmate
24 that said Michael Jackson was heroin, and that's what
25 that means, how would I be able to verify whether

1 that's accurate or not? I'd have to -- would I have
2 to go talk to the inmate?

3 A. The way that we verified it is that he's
4 not only telling us that that's Michael Jackson, but
5 he probably also tells us when they're bringing in
6 the drugs. And then we would be able to verify that
7 what he's saying is true.

8 Q. So the verification would be by listening
9 to the inmate and looking at the drugs?

10 A. Correct. That's a high probability that
11 that's the truth.

12 Q. Now, you indicated that some of the code
13 words are used, I guess, transmitted during
14 visitations that are not monitored; is that right?
15 Is that what you indicated?

16 A. Contact visits.

17 Q. And then I take it you learned about this
18 because at some point in time somebody involved in
19 that unmonitored conversation told you what the code
20 meant?

21 A. Individuals like, for example, for
22 different reasons we've gotten them as sources have
23 indicated to us that that's how they pass
24 information; that would make logical sense to me
25 since I've worked in the prison. And if I was an

1 inmate, that's the way I'd do it.

2 Q. So how do you, then, break the code?

3 A. The code of --

4 Q. Whatever code was developed during these
5 unmonitored visits. How does the Department of
6 Corrections break the code?

7 A. That's hard. Sometimes you can't;
8 sometimes you can.

9 Q. Is there a certification in code breaking
10 of some sort? I mean, like interpreters have
11 certifications. Are there --

12 A. No. Because gangs change the meaning of
13 codes all the time.

14 Q. I understand. But like military has code
15 breakers, right, that go to code school?

16 A. Right.

17 Q. Do you guys have a code school to break
18 code of inmates?

19 A. Just the training and experience.

20 Q. You'd indicated earlier that if you knew --
21 I think what you said is the higher the rank someone
22 is in a prison gang, what that means is that they've
23 committed more horrible crimes, I think is what you
24 said, or horrible acts?

25 A. No. The stature of which you would be in a

1 gang would be predicated on the amount of -- how many
2 crimes you've committed or horrible acts you've
3 committed. That will give you stature. That
4 wouldn't give you influence to be the leader or
5 anything like that. It could.

6 But let's say, for example -- that's why
7 it's a subculture, like in the military, if somebody
8 conducted an act of bravery, maybe he'd be given an
9 award for act of bravery. In the gang life, if he's
10 done something for the betterment of the gang, he's
11 seen in a higher stature as a good guy, if you will,
12 within that gang, a solid individual.

13 Q. But he wouldn't necessarily get a higher
14 rank?

15 A. He could.

16 Q. He could, but not necessarily?

17 A. Correct.

18 Q. So if I tell you there is a leader of the
19 SNM today, and I just said, "John Doe is a leader of
20 the SNM" --

21 A. Right.

22 Q. -- top leaders, what does that tell you
23 about that person? Does it tell you anything?
24 Whether they committed any crimes other than the one
25 that got them in prison? What does that tell you

1 about that person?

2 A. That would tell me that the rest of the
3 individuals in that group believe in him and they
4 find him credible.

5 Q. So it wouldn't tell you necessarily that's
6 a person who is going to order hits and murders
7 around the prison, would it?

8 A. Well, in the gang life, you're probably an
9 individual that would order hits.

10 Q. Probably means what: 100 percent? Over 51
11 percent? What would be?

12 A. I would say 100 percent.

13 Q. So you're saying, if you're a leader in the
14 SNM, you've ordered murders?

15 A. I wouldn't say murders, no.

16 Q. Then what are you saying that they did?

17 A. They could order assaults.

18 Q. Could they maybe be a good source of drugs?

19 A. Yes.

20 Q. Be someone that is honored and respected
21 because of their honesty and their physical stature?

22 A. Honesty within the gang?

23 Q. Yes.

24 A. Or you mean the operating loyalty -- what
25 you call loyal, and maybe what they defer -- they

1 might think of loyalty different than what you think
2 of loyalty. But an individual that is a high ranking
3 member within an organization that's a criminal
4 organization, my professional opinion is that he's
5 conducted some kind of heinous crimes in the past, or
6 has ordered them.

7 Q. And that professional opinion is based on
8 what?

9 A. Training and experience.

10 Q. So interviews with inmates, and
11 information?

12 A. Right.

13 Q. And I take with regard to Mr. Garcia you
14 didn't do any -- you haven't gathered information
15 about him?

16 A. Mr. Garcia is Billy Garcia?

17 Q. Yes. Thank you for that.

18 A. I really didn't know Billy Garcia too much.
19 Only by reputation, or what other inmates have told
20 me about him. I met Billy Garcia when he returned
21 back to prison. I attempted to interview him. And
22 he declined, didn't say anything. So that's the last
23 time I've ever spoken to him.

24 Q. And after that, are you aware of any gang
25 activity he's been involved in?

1 A. Monitoring his mail or his phone calls, I
2 was not aware of any gang activity.

3 Q. Now, you talked about Frederico Munoz?

4 A. Correct.

5 Q. What rank did he end up achieving in the
6 SNM?

7 A. As far as I know, he was a soldier within
8 the SNM.

9 Q. And did he commit two murders, at least
10 that you know of -- all right, I guess the shooting
11 on the street and a murder in a county facility; is
12 that right?

13 A. I believe so.

14 Q. And how did you learn about that?

15 A. I believe I debriefed him when he went to
16 the RPP Program.

17 Q. When would that have been?

18 A. Maybe 2013, 2014.

19 Q. And that would have been a debrief where
20 you would have written down what he said to you?

21 A. Correct.

22 Q. And he admitted to murders and shootings;
23 is that right?

24 A. He admitted to -- yeah, I believe that was
25 probably public record already. But, yes, he

1 admitted to whatever he had done in the gang, yes.

2 Q. So these are all matters that were already
3 part of the public record; is that what you said?

4 A. I believe so.

5 Q. So he didn't admit to anything new that
6 wasn't already known?

7 A. Other than how the SNM structure works or
8 the SNM organization, yes.

9 Q. Now, the source of this -- Mr. Munoz, is a
10 good example, I'll use him -- when you get inmates
11 that are giving you information about the SNM that
12 used to be members, or are currently members, are
13 they often given any incentives -- are they ever
14 given any incentives to assist?

15 A. To assist in giving information?

16 Q. Yes.

17 A. They volunteer the information.

18 Q. They just give it freely, without any
19 problem?

20 A. Well, if an individual is tired of being
21 part of the gang and wants out, and we have -- he
22 would like to go to a restoration program, then part
23 of the criteria is for him to share or debrief
24 information about his past and about his involvement
25 within the group.

1 Q. So the Department of Corrections doesn't
2 say: Cut their sentence, or anything like that?

3 A. No, sir.

4 Q. Give him money?

5 A. The Department of Corrections does not give
6 money.

7 Q. That would be wrong to get information from
8 them; would that be fair to say?

9 A. I'm saying that the Department of
10 Corrections does not give money.

11 Q. How about the ability to give special
12 credits to inmates; is that right?

13 A. Credits earned.

14 Q. How about a special cut in the length of
15 their sentence, if they cooperate? Do they have that
16 ability?

17 A. Not that I'm aware of. I don't know if
18 it's been done or not. But not that I'm aware of.
19 STIU has not done anything like that.

20 Q. Has STIU ever sought the permission to be
21 able to do things like that?

22 A. Not that I'm aware of.

23 Q. Why not? I mean, I'm asking because that
24 sounds like it would be a really good incentive to
25 get a lot of information from inmates. Why would the

1 STIU not request the ability to cut people's
2 sentences in order to gain information about the
3 case?

4 A. You're asking for my opinion on it?

5 Q. Yes.

6 A. We don't do it probably because it's
7 against our policy to do it. The incentive would be,
8 most likely, that we remove them from the gang, the
9 gang life, that he no longer wants to be part of, and
10 put him into a congregate population, where they
11 don't have to be subjected to the politics of gang
12 life.

13 Q. Well, if the STIU had the ability to cut
14 people's sentences or give money to inmates, in your
15 expert opinion, do you believe that would, all of a
16 sudden, cause a lot of inmates to want to come and
17 cooperate?

18 A. I don't know.

19 Q. Do you think it would affect whether they
20 would be reliable?

21 A. I don't know.

22 Q. Are gang members motivated by getting out
23 of jail?

24 A. I think, when an individual decides that he
25 no longer wants to be a part of something, and wants

1 to change, that's the motivation that they use to ask
2 for help to get out.

3 Q. So are you saying that you're an expert in
4 the motivations of inmates in cooperating with STIU?

5 A. I'm saying that during the questioning, I
6 ask them why they're doing this. And what I get as a
7 motivation is that they no longer want to be part of
8 the organization. So they've been thinking about it
9 for a while. They didn't just wake up in the morning
10 and say: I don't want to do this.

11 Most likely, in my experience, most of the
12 individuals have thought about it for a while, and
13 had weighed their options; maybe talked to their
14 family members, and then made a decision to exit.

15 Q. So is that an expert opinion or just a
16 personal opinion?

17 A. That's what I've seen.

18 Q. I'm asking is that your expert opinion or
19 just an opinion as a layperson?

20 A. No, that's my expert opinion and what I've
21 seen.

22 Q. Did you go to school, or trainings that
23 talked about the motivations of inmates that come
24 forward with information; is that part of the
25 training?

1 A. Just time and experience.

2 Q. And in your time and experience do inmates
3 ever ask to get out of jail in return for
4 information?

5 A. I don't have the ability to get people out
6 of jail.

7 Q. No: Do they ask?

8 A. Do they ever ask to get out of jail?

9 Q. Yeah, do they ever ask to --

10 A. If a guy is serving 998 years, I don't
11 think he's going to ask to get out of jail.

12 Q. So all the gang members are serving that
13 kind of sentence?

14 A. No. You're asking me a question that I
15 thought fit that analogy.

16 I'm guessing it didn't make sense to me.

17 Q. Agent, you've indicated that you're an
18 expert, and you want to give an expert opinion --

19 A. Correct.

20 Q. -- about motivations of inmates when they
21 come forward and talk to you about gang information,
22 right?

23 A. Right.

24 Q. So what I'm trying to explore is what is
25 your experience in this regard.

1 A. My experience is --

2 Q. I'm trying to set the stage, okay?

3 So in the interviews that you've had with
4 inmates who are providing information about gang
5 members, is it your testimony that none of them have
6 ever asked for any relief from their sentence in
7 return for their information?

8 A. Not to me.

9 Q. And is it also your testimony that none of
10 them have ever asked for any kind of favor at all in
11 return for their information?

12 A. I make it clear that I can't give nobody
13 any favors, that I can't promise any favors.

14 Q. So is it your testimony that every one of
15 these informants that come forward with information,
16 at least from your perspective, are doing it for
17 noble reasons?

18 A. For the restoration to population, is that
19 what we're talking about? Or just for information in
20 general?

21 Q. The information about SNM Gang members.
22 Let's make it specific.

23 A. The majority of the individuals that have
24 given information are either based on their own
25 protection or the protection of other individuals

1 that they care about.

2 Q. Okay. And what are the minority of the
3 individuals that do that? What are their
4 motivations?

5 A. They just don't want any violence.

6 Q. So they're all doing it for good and noble
7 reasons?

8 A. It's different. It varies. There is
9 different reasons for what they do.

10 But if we're talking about the Restoration
11 Into Population, usually that requires an individual
12 to have a lot of thought process and a change of mind
13 in order to enter that program.

14 Q. Does the Department of Corrections keep
15 data on the motivations of inmates coming forward?

16 A. They don't.

17 Q. You talked about Julian Romero having a
18 green light. Do you recall that?

19 A. Yes.

20 Q. What's the source of that information that
21 you possess?

22 A. One of the sources of information came from
23 Mr. Munoz.

24 Q. So interviews with inmates?

25 A. Yes.

1 Q. And so, what part of your expertise did you
2 apply to determine that Julian Romero has a green
3 light?

4 A. The conducting of interviews and
5 individuals, pretty much telling me the same story.

6 Q. Okay. You indicated that the SNM -- I
7 guess one opinion you were making is the SNM commits
8 murders through strangulation and stabbings?

9 A. Correct.

10 Q. And is that on the streets and in the
11 facilities?

12 A. Correct.

13 Q. So, any other methods that you can think
14 of?

15 A. Well, I'm sure, if they're on the streets,
16 and they have access to firearms, they'll use
17 firearms.

18 But inside the prisons, I've seen
19 strangulations and stabbings.

20 Q. That's the majority of all killings in the
21 prisons, are either strangulations or stabbings,
22 right?

23 A. Correct.

24 Q. So you don't have to be a gang member to
25 strangle somebody or stab someone, right?

1 A. Correct.

2 Q. Now, was there a particular time when the
3 SNM kind of had strangulation as a signature method?

4 A. Not that I'm aware of.

5 Q. Okay. So would they do it in a particular
6 fashion that if someone were to come across, someone
7 who had been murdered that way, you'd go, Oh, that's
8 obviously by the SNM?

9 A. No.

10 Q. How about the stabbings? Was it a certain
11 way that you could tell that that was an SNM
12 stabbing?

13 A. It was an SNM member stabbing another one,
14 yes.

15 Q. Okay. I'm just talking about the nature of
16 which the stabbing occurred.

17 A. Like you said before, there is stabbings in
18 prisons.

19 Q. So you don't have any expert opinion that
20 you're offering concerning the manner of any murder?

21 A. No.

22 Q. Or whether that could be associated with
23 the SNM?

24 A. Correct.

25 MR. CASTLE: If I could have one moment,

1 Judge?

2 THE COURT: Certainly.

3 MR. CASTLE: I have no other questions,
4 Your Honor.

5 THE COURT: All right. Thank you, Mr.
6 Castle. Who would like to go next?

7 MS. JACKS: I'll go, Your Honor.

8 THE COURT: All right. Ms. Jacks.

9 EXAMINATION

10 BY MS. JACKS:

11 Q. Good afternoon, Mr. Martin.

12 A. Good afternoon.

13 Q. So I guess I want to just start back at the
14 very beginning, about your career path, and some of
15 the training that put you where you are today.

16 A. Okay.

17 Q. So, first of all, you said that your
18 training for this position in the STIU started with
19 being a correctional officer?

20 A. No, ma'am, I had to apply and interview for
21 the position.

22 Q. Okay. But before you did that, you were a
23 correctional officer, right?

24 A. Correct.

25 Q. And that was for a period of about eight

1 years?

2 A. Approximately.

3 Q. And during that time, you rotated through
4 various penal institutions?

5 A. Three.

6 Q. And then, in order to become an STIU
7 officer, you had to make some sort of application?

8 A. Correct.

9 Q. Did you have to take any sort of test?

10 A. I had to interview.

11 Q. So an oral interview?

12 A. Correct.

13 Q. What about any sort of test of proficiency
14 or knowledge?

15 A. You had to be able to read and write.

16 Q. Okay. Did you have to know any particular
17 policies and procedures at the New Mexico
18 Correction's Department?

19 A. Yeah. How the policies and procedures work
20 in the Department of Corrections is, if there is a
21 certain area that we're not aware of, or that we have
22 question about, we can look at policy and procedure
23 on it. That's how we use it.

24 Q. Okay. But my question is: In order to
25 become an officer in the Security Threat Intelligence

1 Unit were you tested on your knowledge of any
2 specific policy and procedure?

3 A. Basic knowledge of gangs.

4 Q. So that's not policy and procedure, though,
5 is it?

6 A. No.

7 Q. My question is directed to policies and
8 procedures of the New Mexico Corrections Department.
9 Did you have to show any sort of proficiency with
10 areas of those?

11 A. No.

12 Q. And I'm assuming that you have a high
13 school diploma?

14 A. Yes, ma'am.

15 Q. Do you have any formal education above and
16 beyond high school?

17 A. Other than the trainings that I've gone to,
18 no.

19 Q. Okay. By formal education, I mean like
20 attending community college; getting an AA
21 certificate; attending college; attending graduate
22 school; anything of that nature?

23 A. No, ma'am.

24 Q. So apart from your high school diploma, you
25 have no other formal education?

1 A. No, ma'am.

2 Q. And the training that you're relying on is
3 training that you received in the New Mexico
4 Department of Corrections?

5 A. The training that I -- yes.

6 Q. Okay. And it sounds like you also had some
7 contact with an individual in California regarding
8 training, specifically on the Mexican Mafia and
9 Sureno prison gangs?

10 A. And also the individuals that were our
11 counterparts within the California Department of
12 Corrections. Also, other law enforcement agencies.

13 Q. Okay. You've had some contact with them on
14 the job?

15 A. Yes.

16 Q. And maybe contact at a seminar here and
17 there?

18 A. Correct.

19 Q. Okay. So those would consist of just
20 basically personal conversations and sharing
21 experience?

22 A. Well, I've gone to courses that -- like
23 narcotics courses. I've gone to gang trainings;
24 tattoo identification courses; handwriting analysis
25 courses; hostage negotiation courses. So I've taken

1 a lot of everything that was offered to me within the
2 Department of Corrections.

3 Q. Okay, and --

4 A. For training.

5 Q. -- these are courses and training that are
6 within the New Mexico Department of Corrections?

7 A. Within the New Mexico Department, across
8 the United States.

9 Q. Specifically, do you have any training in
10 the science of sociology?

11 A. No. Other than what I've read, no.

12 Q. Have you done any upper level classwork --
13 I'm talking about community college, college, or
14 graduate level class work -- in sociology?

15 A. No, ma'am.

16 Q. What about the same with respect to
17 psychology? Any formal education above high school
18 in psychology?

19 A. No, ma'am.

20 Q. What about anthropology? Have you studied
21 any anthropology in classes beyond high school?

22 A. No.

23 Q. Have you received any training whatsoever
24 in what motivates people to join gangs, or how gangs
25 are formed, whether it be prison gangs or street

1 gangs?

2 A. Other than interviewing, no.

3 Q. Other than interviewing prison inmates?

4 A. Correct.

5 Q. You don't have any other training or
6 exposure to ideas about that from professional
7 organizations?

8 A. Yes. I was working with an individual, Dr.
9 Robinson, that worked for the Department of
10 Corrections, on gangs and gang behavior.

11 Q. Okay. Is Dr. Robinson a psychologist, or
12 what kind of doctor is Dr. Robison, do you know?

13 A. He's a philosopher. He has a Ph.D in
14 philosophy.

15 Q. Okay. And he's employed by the New Mexico
16 Department of Corrections?

17 A. Yes.

18 Q. And you had a course from him, or you
19 interacted with him on occasion?

20 A. Well, we're collaborating together in
21 putting together a program for individuals that are
22 entering our dropout -- gang dropout.

23 Q. Okay. So you were working with him to try
24 to develop some sort of program for people who were
25 leaving gangs?

1 A. Yes. To enhance the rate of these
2 individuals.

3 For example, California uses a yard, where
4 their ex-members drop out of prison gangs and they're
5 put into separate yards like the RPP program. Their
6 success rate is not that great, because usually gang
7 members will tend to go back to what they know;
8 they'll revert back to what they've always practiced.
9 And that's one of the things that we were trying to
10 work on with a program that would change that
11 behavior.

12 Q. Okay. And that was in connection with your
13 involvement with the RPP Program?

14 A. In the gang unit, the STIU gang unit.

15 Q. Okay. And let me go back. Do you have any
16 training on gang prevention?

17 A. I think the STIU gang, that's one of our --
18 one of the things that we try to do is prevent
19 individuals from joining gangs or staying in gangs.

20 Q. But my question is: Do you have any
21 training, from either experts or taking courses or
22 learning the theories behind gang prevention?

23 A. Only what I've read.

24 Q. And what have you read?

25 A. I've read books on -- different books on

1 gangs. All the way from the inception of gangs when
2 they first started in the United States. We've
3 always had them; just in different formats, different
4 things like that. So I've always tried to keep
5 myself up to date on the philosophy of gangs and how
6 gangs were formed.

7 And the whole idea behind this is to
8 prevent -- to attempt to prevent any type of
9 individuals joining gangs.

10 But other than that, no.

11 Q. How many books would you say you've read on
12 this topic, or it sounds like the general topic of
13 gangs?

14 A. Oh, quite a few.

15 Q. How many is "quite a few"?

16 A. Probably about 20, 25.

17 Q. Okay. And who are these books written by?
18 Can you tell me?

19 A. Right offhand, no, I couldn't tell you.

20 Q. Were they written by gang members? Were
21 they written by law enforcement officers?

22 A. Correct. Some from gang members. For
23 example, the last one I read was written by an
24 individual that was -- spent 30 years in the gangs
25 and got a Ph.D. in sociology, De La Cruz -- and he

1 testifies as a gang expert. So that's the last one I
2 read.

3 Q. And you've read books that were written by
4 law enforcement?

5 A. Correct.

6 Q. And any other type of individual that's
7 written these books that you've read, these 25 books?

8 A. I can't right offhand remember all the
9 names of the individuals, so --

10 Q. And I think you indicated on your CV that
11 you have a certification. You have an FBI
12 certification in hostage survival crisis negotiation
13 and Arab culture?

14 A. I studied that for six years.

15 Q. Do you have any other certifications like
16 that?

17 A. Just certifications where I've attended
18 classes for narcotics or gang identification, tattoo
19 identification, graffiti identification.

20 Q. You're talking about, like, certificates
21 saying you attended a two-hour lecture on something?

22 A. Yeah, 40-hour lecture, 80-hour lecture.

23 Q. Okay. What is the -- well, you haven't
24 listed it on your CV -- is there some certification
25 with respect to prison gangs that you have that's

1 omitted from your CV?

2 A. Other than working in the prison system for
3 17 years, no.

4 Q. No, okay.

5 And this CV, when did you prepare this, or
6 was it prepared for you?

7 A. I think I have had it prepared since I went
8 to court in -- it might have been 2014. But the CV
9 one, I prepared it probably about six months ago.

10 Q. Did you print it in connection with the
11 Government's intent to qualify you as a gang expert
12 in this case?

13 A. Correct.

14 Q. And did you have assistance from the
15 Government in preparing it?

16 A. No.

17 Q. And you mentioned previously that you
18 testified in two prior cases before this case; is
19 that right?

20 A. Correct.

21 Q. And in those cases, were you testifying as
22 an expert on prison gangs, or were you testifying as
23 a witness to some fact that happened that was
24 relevant in the litigation?

25 A. On the Sureno case, I was testifying as a

1 witness to the Sureno prison gangs.

2 Q. Okay. And the other case that you
3 mentioned?

4 A. The other case that I mentioned that -- I
5 was a witness on an individual, I guess, that was
6 attempting to -- that filed a habeas to reenter the
7 SNM active population.

8 Q. And so were you a witness as to the facts
9 of why he was classified one way or another, that
10 were at issue in the case?

11 A. Correct.

12 Q. So you'd agree that wasn't an expert
13 witness?

14 A. Correct.

15 Q. Mr. Martin, have you published any sort of
16 articles regarding your findings or thoughts about
17 prison gangs in any sort of journal or magazine or
18 other type of publication?

19 A. No, ma'am.

20 Q. Have you ever submitted an article that you
21 prepared regarding your thoughts on prison gangs, or
22 gangs in general, for submission into a journal or a
23 magazine?

24 A. No, I have not.

25 Q. Have you prepared any writings regarding

1 your thoughts, analysis, evaluation of prison gangs?

2 A. To --

3 Q. For public dissemination; not just for
4 placement of New Mexico Department of Corrections?

5 A. I have not, no.

6 Q. And can you tell me what publications, if
7 any, you read on a regular basis to stay abreast of
8 developments in this area of prison gangs?

9 A. Other than going into the internet and
10 going to different prisons, or speaking to different
11 individuals that work in different prisons, no,
12 that's the only thing.

13 Q. Well, let's talk about the internet. So
14 what you're referring to is, sometimes when you have
15 a question, you might Google a question and see what
16 the internet says about the answer?

17 A. No.

18 Q. Oh. How do you use the internet?

19 A. Informational.

20 Q. For what type of information?

21 A. Just to see what different cultures in
22 gangs are doing in different places.

23 Q. Okay. And how do you find information
24 about different cultures in gangs on the internet?

25 A. There is different law enforcement web

1 sites that I will print out. For example, I believe
2 one is Code 10, or Code 1, that give information
3 about what's going on in different prisons and the
4 gang activity, or security threat gangs on the
5 internet. Whenever I see any of these things,
6 usually I'll try to contact the individuals for more
7 information on topics.

8 Q. So are these, like, websites where law
9 enforcement officers, corrections officers, would
10 share stories about gangs and information they have
11 about gangs?

12 A. No. Usually, it's counterparts.

13 Q. Usually it's what?

14 A. Counterparts, like gang unit officers.

15 Q. From different prisons?

16 A. Or different law enforcements, like Las
17 Cruces, or Albuquerque.

18 Q. Okay.

19 A. The Bernalillo County Sheriff's Department
20 Gang Unit.

21 Q. Okay. And you regularly visit these
22 websites?

23 A. No.

24 Q. Code 10 or Code 1?

25 A. No.

1 Q. Occasionally?

2 A. I have, though.

3 Q. And apart from reading what they say, do
4 you do anything to validate the veracity of the
5 information that you obtain from the website?

6 A. Usually, it's the same information we have,
7 as far as gang culture and gang activity.

8 Q. So with respect to becoming an STIU
9 officer, what are the requirements, according to the
10 New Mexico Department of Corrections?

11 A. It's been a long time. You just have to --
12 you have got to be a person that doesn't have any
13 misconducts, a person of good character.

14 Q. Do you have to be a correctional officer?

15 A. No.

16 Q. So you have to be a person that doesn't
17 have a history of misconduct. And I think you said
18 you have to be able to read and write. Are there any
19 other requirements that you're aware of?

20 A. Probably a basic knowledge of gangs.

21 Q. You said "probably," so is that a
22 requirement?

23 A. Well, in 2006 -- I'm sure the criteria has
24 changed now -- but in 2006, when I first started, I
25 had an application. I applied. I was interviewed by

1 a panel, and I was picked. And so I did ask that
2 person: So has the criteria changed now? I don't
3 know. I've never applied again for --

4 Q. Once you're in, as long as you don't commit
5 some sort of misconduct, you stay in, or promote out?

6 A. Correct.

7 Q. Now, does the New Mexico Department of
8 Corrections have --

9 Let me go back for a second. Ms. Armijo
10 asked you some questions about Security Threat Groups
11 and disruptive groups?

12 A. Correct.

13 Q. Do those terms have specific definitions?

14 A. They do. They vary a little. I don't know
15 specifically. I'm not -- I'm not specifically sure
16 what they say, other than an organized group of three
17 or more individuals that are -- that compile the same
18 signs, symbolisms, and conduct criminal activities;
19 disruptive groups haven't met the same criteria to be
20 validated -- the disruptive groups haven't met the
21 same criteria to be validated or certified as
22 validated groups, STG groups.

23 Q. So is that -- first of all, let me just
24 make sure I understand what you're saying. Are you
25 saying that a Security Threat Group and a disruptive

1 group are defined by the same criteria?

2 A. Other than organization, yes.

3 Q. And is there somewhere in the New Mexico
4 Department of Corrections' regulations, policies, and
5 procedures manuals that define specifically what a
6 Security Threat Group is and what a disruptive group
7 is?

8 A. Yes.

9 Q. And can you tell me where that is? What's
10 the policy?

11 A. I couldn't tell you right offhand what the
12 policy is.

13 Q. Is there something you need to look it up?

14 A. The policies of the New Mexico Corrections
15 Department, yes.

16 Q. Okay. So you could look that up this
17 evening, and let us know tomorrow, right?

18 A. I could let you know tomorrow, yes.

19 Q. Okay. And do you know the number, the
20 chapter that those policies and procedures or
21 definitions would be located in?

22 A. I don't.

23 Q. And the information that you just gave me
24 about an organized group of three or more individuals
25 with a sign or symbol that engage in criminal

1 activity, is that a paraphrasing or what you can best
2 remember at this point about how a security threat
3 group is identified, or is defined?

4 A. I'm paraphrasing.

5 MR. SINDEL: I'm sorry. I can't hear.

6 THE COURT: He's paraphrasing.

7 MR. SINDEL: Thank you.

8 Q. And do you know how the New Mexico
9 Department of Corrections came up with a definition
10 of what a Security Threat Group is?

11 A. I'm not sure, ma'am. I know I've seen it
12 in other prison policies. But a lot of our policies
13 come from state statutes, so I'm not sure if that's
14 where it came from.

15 Q. So as you sit here today, you don't know
16 the origin of that?

17 A. No, ma'am.

18 Q. And did you have anything to do with how
19 that group, the Security Threat Group was defined?
20 Did you sit in on policy discussions, or --

21 A. I did not.

22 Q. So, by the time you joined the STIU, was
23 that already something that was defined as a security
24 threat group versus a disruptive group?

25 A. Yes.

1 Q. And then I think you were also asked some
2 questions about the criteria for trying to validate
3 or attempting to validate a prison inmate as a gang
4 member. Do you recall those questions?

5 A. To validate an individual as a security
6 threat group.

7 Q. Yes. I think there was list of criteria.
8 I'm looking at Exhibit 18. Can you see Exhibit 18,
9 page 3?

10 A. Yes.

11 Q. Is there a regulation of the New Mexico
12 Department of Corrections that outlines this list of
13 criteria as criteria for validating somebody, or
14 attempting to validate somebody as a gang member?

15 A. That would fall under the STIU policy.

16 Q. Okay. And do you know what policy,
17 specifically, that is?

18 A. I couldn't say for sure.

19 Q. Can you give us an indication, maybe what
20 chapter or what section of the policy and procedure
21 manual that would be in?

22 A. No, that's my weakness there; policy, as
23 far as numbers. Whenever I look policy up, I usually
24 go in to the policies that I need. But I don't ever
25 refer -- I mean, I don't memorize the policy number.

1 Q. This type of criteria, did you have any
2 input about how this was developed, as how this would
3 help you determine whether somebody is a gang member
4 or not?

5 A. That was before I started STIU.

6 Q. And do you know anything about the
7 reasoning behind it?

8 A. Well, that would be to establish whether
9 the individual is a suspected gang member or a
10 validated gang member.

11 Q. That's the ultimate goal. But I mean, do
12 you know anything about the reasoning behind it? For
13 example, why you would consider, say number 8, group
14 photos?

15 A. I don't.

16 Q. What's the policy behind that?

17 A. I don't.

18 Q. And just as an example, inmates aren't
19 allowed to have cameras in prison, right?

20 A. Correct.

21 Q. So when photos are taken of inmates in
22 prison it's with the prison's cooperation?

23 A. Correct.

24 Q. The prison actually facilitates it?

25 A. Correct.

1 Q. And it's a perk to some inmates to have
2 pictures to send out to family and friends?

3 A. I believe they have to pay for it.

4 Q. They have to pay for it?

5 A. Correct.

6 Q. But it's a privilege that can be denied if
7 an inmate is misbehaving, right?

8 A. I'm not sure if that falls into the
9 category of discipline, that he can't take a picture
10 or he can take a picture.

11 Q. Okay. Going back to just the idea of
12 pictures: The prison controls how the picture can be
13 taken, right?

14 A. At the request of the inmate.

15 Q. And when it can be taken?

16 A. Yes.

17 Q. And who is going to take it?

18 A. Usually, the guy with the camera.

19 Q. And who is permitted in the area where the
20 photography is going to occur, right?

21 A. I don't know.

22 Q. You don't know how photographs are taken of
23 prison inmates?

24 A. I would imagine, if individuals want to
25 take pictures, they would say who they wanted in

1 their picture and who they wouldn't want in their
2 picture.

3 Q. I want to show you an exhibit that's been
4 marked as Government's Exhibit 23. This is a picture
5 that you talked about -- I think Ms. Armijo asked you
6 some questions about this picture, and whether this
7 picture had people that were all SNM members. Do you
8 recall those questions?

9 A. Yes.

10 Q. And I just want to follow up on that for a
11 second, okay?

12 A. Okay.

13 Q. Does the New Mexico Department of
14 Corrections have a policy of housing people who are
15 suspected or validated SNM members together in the
16 same pod?

17 A. Yes.

18 Q. And do they do that because they think, if
19 they do that, people will get along more easily;
20 there will be less friction?

21 A. They're segregated because they're a
22 Security Threat Group.

23 Q. And so if photo day comes to, say, a pod at
24 Southern New Mexico Correctional Facility, do you
25 know whether it's possible for inmates to take photos

1 with people from other pods?

2 A. I don't know that. But I would speculate
3 that they're not allowed to.

4 Q. And looking at Government's Exhibit 23, do
5 you know whether every single individual in that
6 photograph was housed in the same pod on the day that
7 picture was taken?

8 A. I couldn't tell you if they were or not.
9 But I believe they were all in the same pod.

10 Q. Okay. Well -- and if we're talking about
11 there is rarely a situation where a non-SNM member,
12 or SNM suspect, would be in a photo with the SNM
13 members; do you recall that testimony?

14 A. Yes.

15 Q. But that's because SNM members and suspects
16 are segregated from non-SNM members?

17 A. I believe I was referring to the time that
18 they were in a population setting with other
19 individuals that were not SNM members. So that would
20 have been prior to them being segregated.

21 Q. And what year, to the best of your
22 recollection, were they segregated?

23 A. 2001, 2002.

24 Q. So any photograph taken of SNM members
25 after 2001 or 2002, would necessarily have included

1 more than one person, contain people that the prison,
2 the New Mexico Department of Corrections believe were
3 validated SNM members or suspects, just by
4 definition?

5 A. Are you asking me if -- can you ask me the
6 question again?

7 Q. What I'm asking you is: Let's just say for
8 a second, I'm an SNM member, okay, and I'm housed in
9 an SNM pod, and photo day comes around --

10 A. Right.

11 Q. If I want to get my picture taken with
12 somebody that's not an SNM member, how am I going to
13 do that if I can't leave the pod?

14 A. Right. You wouldn't be able to.

15 Q. Okay. So the significance of everybody in
16 Government's Exhibit 23, being an SNM member or
17 suspect, is a result, really, of the Department of
18 Corrections housing policy?

19 A. Correct.

20 Q. Not of individuals' decisions to exclude
21 others from the photograph?

22 A. Correct.

23 Q. So if I understand your testimony
24 accurately, one of the duties that an STIU officer
25 has is to put together these validation packets on

1 various prison inmates?

2 A. The validation packets.

3 Q. Similar -- so that we're talking about the
4 same thing -- this Exhibit 18 that Ms. Armijo showed
5 you regarding Mr. Baca.

6 A. Usually, those validation packets are put
7 together -- or the packets are put together on gangs
8 or gang affiliation during their Reception and
9 Diagnostic Center, when they first enter the prison.

10 There is some occasion where we find an
11 individual that's gang associated within the prison,
12 when they've been there maybe a couple of years or so
13 that would identify them; then, yes, we would start
14 the packet.

15 Q. Okay. So the majority of the packets would
16 be put together right as a person enters prison?

17 A. Correct.

18 Q. And so that would not be done by somebody
19 in the STIU?

20 A. It would be done by STIU.

21 Q. Okay. It would be, but they'd be at the
22 Reception and Diagnostic Center?

23 A. Correct.

24 Q. And then these packages are then circulated
25 within the prisons?

1 A. No, the packet -- the file stays wherever
2 the inmate is.

3 Q. And people in the STIU office have access
4 to the file?

5 A. They're secured. But yes. They're in a
6 secured location within the coordinator's office.

7 Q. So would you have to physically go and look
8 at the file in the coordinator's office if you wanted
9 to review it, or is there a computer database as
10 well?

11 A. You would have to physically go.

12 Q. Physically go?

13 A. Yes.

14 Q. And where are these files kept? What
15 prison or what coordinator's office?

16 A. Wherever the STIU coordinator is for that
17 prison, they're kept under his care.

18 Q. So there would be a coordinator's office in
19 each prison?

20 A. Yes.

21 Q. So the STIU officers from that particular
22 prison could access the packets?

23 A. Correct.

24 Q. And would you agree with me that the
25 information in these packages -- well, tell me the

1 source of the information in a package like this, the
2 sources?

3 A. What the sources would be?

4 Q. Correct. They'd be, for example, the
5 inmate -- possibly, the inmate himself, right?

6 A. Um-hum.

7 Q. Correctional officers?

8 A. No. I'm not sure what your question is.

9 Q. Well, I'm asking you, if somebody is
10 putting together a package like this?

11 A. The STIU is the only ones that put packages
12 together.

13 Q. And you were an STIU officer, right?

14 A. Correct.

15 Q. So did you put together packages like this?

16 A. I have put packages together.

17 Q. Okay. And so where did you get the
18 information that you put in this type of validation
19 package?

20 A. Well, it's -- let's say, for example, that
21 I found an individual that was self-admitted to be to
22 me that he was a gang member when I'm interviewing
23 him --

24 Q. Okay.

25 A. -- then the packet is already -- we already

1 have packets made. So what we do is we download them
2 into our file -- I mean to our computers. And then,
3 once we go talk to the inmate, then we take what we'd
4 call a questionnaire.

5 If we found if there is already an existing
6 file for -- let's say, for example, an inmate is
7 already known to be a gang member, and we found more
8 information to gang activity, then we would
9 categorize it in the file where it goes: If it's
10 photographs, under photographs; if it's tattoos,
11 under tattoos; if it's other information, under other
12 information.

13 Q. If it's law enforcement reports, you obtain
14 copies of those reports?

15 A. Yes.

16 Q. If it's -- I think you talked about, if an
17 inmate self-admits, there would be a form that would
18 show that the inmate self-admitted?

19 A. Correct.

20 Q. If it's confidential information from other
21 inmates, that would be placed in this file?

22 A. Correct.

23 Q. And if it's information from correctional
24 officers, that would be placed in this file?

25 A. Yes.

1 Q. And if it's information --

2 A. If it's credible.

3 Q. I want to get to that in a second. But I
4 want to get an idea first of the kind of information.

5 Oh, if it's intercepted communications,
6 such as letters, would that be placed in the file?

7 A. Yeah, they could, yes.

8 Q. If it's intercepted communications, such as
9 telephone calls, what happens with those?

10 A. The telephone calls, we can download them,
11 a recording of them, and sometimes we'll do bullet
12 points.

13 Q. Sometimes you'll do bullet points?

14 A. Yes.

15 Q. Like a memo stating: Here is what was
16 discussed in the phone call?

17 A. Correct.

18 Q. And place that in the file?

19 A. Correct.

20 Q. And then save the actual phone call?

21 A. Yes, on an alert form.

22 Q. So I want to ask you about the regulations
23 that the New Mexico Department of Corrections has
24 about putting information into the file, okay?

25 Is there a regulation that says: Before

1 information can be put in a file it has to be
2 validated?

3 A. Yes.

4 Q. And can you tell me the number of that
5 policy and procedure regulation?

6 A. I couldn't.

7 Q. Can you tell me the chapter that's located
8 in?

9 A. No.

10 Q. Can you tell me the text of the policy or
11 procedure that requires the validation of
12 information?

13 A. No. I believe it's under CI policy,
14 though.

15 Q. So what you're thinking of would be some
16 effort, or some regulation about validating
17 information from informants before it's placed in the
18 file?

19 A. Correct.

20 Q. So that would apply only to that category
21 of information?

22 A. I'm not sure what your question is.

23 Q. Can you tell me what the policy and
24 procedure about verifying CI information -- what it
25 is; what does it require as an STIU officer to do?

1 A. Well, it depends what it is. For example,
2 if I have CI information that this individual is
3 telling me that another inmate is a Sureno, or
4 whatever gang member, and my question, of course,
5 would be: How do you know that? And if they say
6 they've indicated to us that that's where they're
7 from, that's where they're saying they're from, and
8 also they have letters and/or symbolism in their
9 personal property, then to verify, we check the
10 inmate's property to verify that that's true. And
11 usually, we'll interview the inmate to find out if
12 that's true.

13 Usually, inmates that are gang members for
14 the most part will tell you they're gang members.

15 Q. And so in that scenario you gave me, the
16 information from the informant would be verified or
17 corroborated by the inmate's admission, property from
18 the inmate's cell --

19 A. Correct.

20 Q. -- perhaps the inmate's tattoos?

21 A. Right. Because I couldn't say -- if
22 somebody came to me and said: This individual is an
23 SNM member, and I could not corroborate that, I'm not
24 going to place that guy as an SNM suspect or a
25 member, because I don't know that to be true.

1 Q. Okay. And I understand you're saying you
2 wouldn't do that. My question is, is there something
3 in the policy and procedures of how the STIU unit is
4 supposed to operate that would prohibit someone --

5 A. That's something that the coordinator
6 oversees. The STIU coordinator at every prison
7 oversees that, to make sure that doesn't happen.

8 Q. To make sure that doesn't happen?

9 A. Correct.

10 Q. So that wouldn't be your responsibility as
11 an officer?

12 A. No.

13 Q. It would be the coordinator's
14 responsibility?

15 A. Correct.

16 Q. And my question, I think that I was in the
17 middle of asking was, is there a specific New Mexico
18 Department of Corrections regulation that says as an
19 STIU officer you cannot put confidential information
20 into an inmate's validation package unless it's
21 corroborated?

22 A. I'm not sure it says it that way, but I'm
23 sure there is a policy on it.

24 Q. But it's a policy you don't know?

25 A. It's a policy, most likely, in the STIU

1 policy.

2 Q. Okay. What is the policy?

3 A. I don't know.

4 Q. And how long have you been working as an
5 STIU officer?

6 A. Eleven years.

7 Q. I think you were asked some questions
8 earlier. We talked about adding things to an
9 inmate's validation package. I think you were asked
10 some questions earlier about removing things.

11 A. Correct.

12 Q. And first of all, I want to ask you, is
13 there a Department of Corrections policy or procedure
14 or regulation that talks about when something has to
15 be removed from somebody's, quote, "validation
16 package?

17 A. I believe there is. I believe the inmate
18 has to request that. If he's not an active gang
19 member for a certain amount of time, he can request
20 an investigation into that. And that's how they're
21 removed, or the individual is -- denounces. But
22 rarely is that ever done.

23 Q. Well, I just want to go back to what the
24 process is, if there is a process.

25 A. I'm not sure, because I've never really

1 seen it done.

2 Q. Okay. You've never removed any?

3 A. I never have, no.

4 Q. And you haven't seen anybody else that
5 you've worked with remove anything?

6 A. No.

7 Q. And do you know what the regulation or
8 policy or procedure is for removing something as you
9 sit here?

10 A. No. No, the reason I don't know, most
11 likely, is because I've never really had to do that,
12 so I've never gotten to see what the policy is on
13 that, or if that is a policy on it.

14 Q. Okay. Is there a policy or procedure or
15 regulation that allows an inmate to contest
16 information in this validation package put together
17 by the Department of Corrections?

18 A. I don't believe there is.

19 Q. And can you tell me, in 2014, who the
20 administrative coordinator was for STIU at Southern
21 New Mexico Correctional Facility?

22 A. I believe it was Daniel Blanco.

23 Q. And what about the administrative
24 coordinator at PNM --

25 A. Adam Vigil.

1 Q. -- I'm sorry, during that time period?

2 A. Adam Vigil.

3 Q. And are administrative coordinators in the
4 STIU people that were formerly STIU officers that
5 then promoted to that position?

6 A. No.

7 Q. Do you know the criteria or the
8 requirements for somebody to obtain that position?

9 A. No, I don't.

10 Q. During your time as an STIU officer, did
11 you receive any training or instruction in how to
12 follow the policies and procedures of the Department
13 of Corrections, to ensure that you were accurately
14 and reliably classifying inmates according to the
15 regulations?

16 A. I'm sure I had some training in that, yes.

17 Q. Okay. Can you tell me when you had
18 training and how much it was?

19 A. I think I went to the diagnostic and
20 reception area and learned their procedures on how to
21 build files. But primarily, that wasn't in my area
22 or my field of my operation as an STIU officer.
23 That's primarily something that was done at RDC. So
24 the fact that, you know, I don't know a whole lot
25 about the files is because I really don't deal with

1 them too much, other than review them, or look into
2 them when I need information from them.

3 Q. You use them for information, right?

4 A. Correct.

5 Q. And you rely on the fact that somebody else
6 produced them in some sort of hopefully accurate or
7 credible manner, right?

8 A. Correct.

9 Q. And as part of your -- was your term at the
10 reception center in learning about building these
11 files, was that at the beginning of your appointment
12 as an STIU officer?

13 A. Correct.

14 Q. So 10 years ago?

15 A. About 11 years.

16 Q. Eleven years ago. And that was how long of
17 a rotation through that diagnostic center did you
18 have?

19 A. About a day or so.

20 Q. I'm sorry? One day?

21 A. About a day or so.

22 Q. And the regulations that govern the
23 designation of individuals as gang members, and how
24 you back that up as a corrections officer, how many
25 pages of regulations are there in the New Mexico

1 Department of Corrections regarding that issue?

2 A. I don't know.

3 Q. Is it, you know, tens of pages, hundreds of
4 pages?

5 A. No, not that many. I'm not sure -- let me
6 see if I understand your question. Are you asking me
7 how many pages are there to build a file?

8 Q. No, I'm asking you about the regulations.
9 You said you spent about a day sort of learning about
10 the regulations and how these files are supposed to
11 be built, right?

12 A. Right.

13 Q. So you spent about a day doing that. I'm
14 trying to get an idea of how much information you
15 were trying to assimilate in that short time period.

16 A. Well, the regulations or the procedure
17 would be for interviews when an individual comes in,
18 and a gang identification, if he offers any details,
19 or if he has any more information that would properly
20 indicate that he's gang affiliated. Those are all
21 things that are entered into. So those are all done
22 at the reception.

23 Again, you're asking me questions that I
24 did 11 years ago. So I'm not too familiar with that.
25 Usually, with the gang files that we have, they're

1 already -- they're done.

2 Q. Well, I think what you're telling me is the
3 way you rely on the files now is you just assume
4 they're true?

5 A. Well, yeah.

6 Q. And you assume they're true, but you don't
7 have any -- you don't have any responsibility for
8 checking the information to make sure they're true?

9 A. No, that's the coordinator's job. He
10 allotted them.

11 Q. And my question was how many pages are
12 these regulations that talk about the criteria and
13 how you're supposed to go about evaluating
14 information and placing it in these files? Do you
15 remember? I realize it was 11 years ago, but --

16 A. I think there is a couple of forms there
17 that indicate to you, the index form that tells you
18 what goes into the file, and what the procedures are.

19 Q. So it sounds like the answer is "I don't
20 know" or "I don't remember."

21 A. Correct. I don't remember.

22 THE COURT: Ms. Jacks, let me pause here.
23 I'd like to try something here. This will require
24 all of us to work together. I need to let Ms. Bean
25 rest her fingers for a few minutes before we plow

1 ahead. I'm not going to go any later than 5:30, but
2 I'd like to get a little more time in. If I could
3 get the defendants to stay in place. We're only go
4 to go to 5:30, stay in place. Let Ms. Bean rest her
5 fingers just long enough. If counsel want to slip
6 out and use the restroom or something real quick,
7 that's fine. We'll take our cue from her. Let's
8 take a little bit of a break, see how long she takes
9 to rests her fingers, we'll come back in. If the
10 defendants can stay here. We'll be done at 5:30 and
11 get you on the road. All right. Let's try this.
12 We'll be in recess for a few minutes.

13 (The Court stood in recess.)

14 THE COURT: Let's see if we can get
15 everybody back in and seated. All right. Everybody
16 got an attorney? Look around, help your co-defendant
17 there. Everybody got an attorney? All right.

18 MS. JACKS: We need a witness.

19 THE COURT: All right. Mr. Martin, if
20 you'll return to the witness box. I'll remind you
21 you're still under oath.

22 Ms. Jacks, if you want to continue your
23 cross-examination of Mr. Martin. And thank you, I
24 appreciate everybody cooperating. We get a little
25 more work done this afternoon. Ms. Jacks.

1 THE COURT: Ms. Jacks.

2 MS. JACKS: Thanks. I'm going to wait till
3 he gets seated.

4 Q. Okay. So, Mr. Martin, I want to move on to
5 a different subject matter. Because I think after
6 she talked to you about the validation criteria, Ms.
7 Armijo asked you if you'd reviewed this document.
8 And what I'm putting up here is Document 1299, which
9 is the Government's notice of experts. And I believe
10 you indicated to her that you had reviewed it.

11 A. Correct.

12 Q. And then she asked you: Do you agree with
13 page 1 through 6 of this document? And I think you
14 said you did; is that right?

15 A. Correct.

16 Q. Can you summarize for me what's on page 1
17 through 6 of Document 1299 that you agree with?

18 A. Looking at it now, the only thing I
19 disagree with is that they put me down as unit
20 coordinator.

21 Q. Okay. Wait, so you -- okay, you're looking
22 at page 1 of the document now, right?

23 A. Correct.

24 Q. And you see something on there you disagree
25 with now?

1 A. Yes. I haven't read it before. I was the
2 sergeant of STIU, not unit coordinator. That was an
3 oversight on my part.

4 Q. Okay. So let me see if I can mark that on
5 this document. You're looking here on the paragraph
6 "Proposed Expert Testimony, where it says "Unit
7 Coordinator Martin"?

8 A. Correct.

9 Q. Now that you're looking at it more
10 carefully, you're saying that you were actually a
11 sergeant?

12 A. Correct. I was sergeant, I wasn't the unit
13 coordinator.

14 Q. Okay. Do you remember what's on the other
15 pages, the rest of page 1, and pages 2 through 6,
16 that you testified you agreed with?

17 A. Not without looking at it. Yeah, but I
18 hadn't read it before. I had an oversight on that.

19 Q. On your title?

20 A. Correct.

21 Q. With respect to this document, and pages 1
22 through 6 -- first of all, did you write this
23 document, 1299?

24 A. No, I did not.

25 Q. Did you contribute information to the

1 Government lawyers so that they could write it?

2 A. Yes, I did.

3 Q. Okay. And when did you do that?

4 A. I'm not sure if it was six months ago or
5 more or -- I'm not sure. I know that -- I'm not
6 sure.

7 Q. Did you give them something in writing or
8 did you sit down with them and talk about things
9 verbally? Or how was your contribution made?

10 A. Yes, I gave them something in writing.

11 Q. And do you remember what that was?

12 A. I believe it was a CV that I had written.

13 Q. Oh, you gave them your CV. But let me be
14 more specific. With respect to the content of pages
15 1 through 6, regarding the expert opinions, did you
16 provide the Government with some sort of input as to
17 those opinions?

18 A. I may have.

19 Q. Well, did you or didn't you?

20 A. I don't remember. But I know that I had a
21 general conversation with them about it, yes.

22 Q. Okay. I want to be very specific. Prior
23 to this document being produced, did you provide the
24 Government with anything in writing regarding the
25 nature of these opinions that are reflected in pages

1 1 through 6?

2 A. Did I give them anything in writing to
3 indicate that I'm an expert?

4 Q. No, regarding the nature of these expert
5 opinions that are supposedly contained in pages 1
6 through 6.

7 A. I think I wrote them something.

8 Q. Okay. And my question is: What did you
9 write them and when did you write it?

10 A. I don't remember when I wrote it, but I'm
11 sure I wrote it.

12 Q. May I see it? Do you have a copy?

13 A. No.

14 Q. How did you transmit your writing about
15 these opinions to the Government? Did you email it?
16 Did you mail it? Did you hand it to them?

17 A. I may have emailed them.

18 Q. So does that mean you did or you didn't?

19 A. Well, I know we've had conversations,
20 verbal conversations. So I'm not sure if some of
21 those verbal conversations are in here or something
22 that I wrote.

23 Q. Okay. Well, how could you be sure?

24 A. If I still have the writings.

25 Q. In your emails or in your -- on your

1 computer?

2 A. Right.

3 Q. So that's something you can check for us
4 tonight, right?

5 A. Yes.

6 Q. And that would help us see what you
7 actually told the Government and when?

8 A. Correct.

9 Q. Okay. Prior to today, had you reviewed
10 this Document 1299?

11 A. No, it was not shown to me other than
12 today.

13 Q. You saw it for the first time today?

14 A. Today or yesterday.

15 Q. And I wanted to start with some of the
16 first information in it that you testified that you
17 agreed with. And that's under A. It says that
18 you're going to testify about the "history, culture,
19 codes of conduct, methods of operation, and
20 communication, and the behaviors of the SNM Security
21 Threat Group."

22 A. Okay.

23 Q. Okay. So my question to you is: How did
24 you become aware of the history of the SNM?

25 A. Through interviews and -- mainly through

1 interviews, and also coworkers, when I first started
2 at the Corrections Department.

3 Q. So your knowledge about the history of the
4 SNM is through interviews of inmates?

5 A. Of individuals that were original members
6 of the SNM.

7 Q. Inmates, prison inmates?

8 A. Correct.

9 Q. And in discussions with coworkers in the
10 STIU unit?

11 A. When I first started Corrections would be
12 in 1993. Some of the veteran officers had explained
13 to me some of the history of the SNM. And during my
14 time in STIU, and through interviews, I've come to
15 know that -- the history of the SNM.

16 Q. So through word of mouth of other people is
17 how you've become aware of the history?

18 A. Yes. Corroborated by inmates that were
19 originators of the SNM, yes.

20 Q. And did you prepare any sort of writings or
21 memo or contemporaneous notation about these
22 interviews and conversations as they occurred?

23 A. Yes.

24 Q. And where is that?

25 A. It's property of STIU. I'm no longer in

1 STIU. But I'm sure they have it.

2 Q. So there is a writing in the STIU that you
3 prepared regarding the history?

4 A. I'm sure there is.

5 Q. Can you tell us what it was entitled or
6 when you authored it?

7 A. If I wrote the history of the SNM, it would
8 be just individual interviews. Those would be
9 interviews. Also, listening to recorded testimony or
10 recorded interviews from the -- I believe it was the
11 Bernalillo County Sheriff's Department interviews
12 with ex-members that were original members of the
13 SNM.

14 Q. Let's move on to the second thing, the
15 culture of the SNM. How is it that you have an
16 opinion about the culture of the SNM? What
17 information informs that opinion?

18 A. The same.

19 Q. Interviews with inmates, other officers?

20 A. SNM members.

21 Q. SNM members, and listening to recordings
22 that other people had made of interviews with
23 inmates?

24 A. Correct.

25 Q. Okay. The codes of conduct. How is it

1 that you're able to form some sort of opinion
2 regarding that?

3 A. Those, again, with interviews and
4 documentation on those.

5 Q. What do you mean "documentation"? I'm
6 sorry.

7 A. I've seen documentations of their code of
8 conduct.

9 Q. So documentation prepared by alleged SNM
10 members?

11 A. Confiscated from SNM members.

12 Q. And do you have copies of that
13 documentation?

14 A. I don't, no.

15 Q. Can you tell us when you obtained it or
16 looked at it?

17 A. I believe, when I was working at Southern
18 as an STIU officer -- I mean, STIU gang unit officer.

19 Q. And when did you come into possession of
20 this documentation, what year?

21 A. I don't believe I found them. I believe
22 one of the coworkers found them. And I'm just saying
23 I witnessed them.

24 Q. So you looked at them?

25 A. Yes.

1 Q. And you don't know where that documentation
2 is now?

3 A. No. But also with the interviews of
4 inmates on the code of conduct, to be more specific,
5 with individuals that have denounced.

6 Q. And just going back to that documentation
7 do you know where the documentation came from, or how
8 it was -- came into the possession of a correctional
9 officer?

10 A. Correctional officer? No, STIU unit.

11 Q. Of an STIU officer?

12 A. I believe during a cell search they may
13 have found them.

14 Q. Do you know whose cell and when?

15 A. I am not -- I don't remember.

16 Q. Let's go to methods of operation and
17 communication. Is your opinion about methods of
18 operation and communication again based on
19 conversations with inmates and other correctional
20 officers, reviewing reports?

21 A. Yes, and also individuals that had been
22 active members that have stated this as well.

23 Q. Well, that would be interviews of inmates,
24 right?

25 A. Correct.

1 Q. Or former inmates?

2 A. Former inmates, and also active inmates
3 that are members of the SNM.

4 Q. Okay. And the behaviors of the SNM, what
5 informs your opinion as to that?

6 A. Their behaviors is again, interviews, time
7 and experience, eyewitnessing SNM behaviors.

8 Q. So with respect to that one criteria,
9 behaviors, you, because you were present in the
10 prison, actually saw some behavior yourself?

11 A. Right. And also talking to members of the
12 SNM.

13 Q. Okay. Is there anyplace where you've
14 compiled these interviews and conversations and
15 observations that were made into something that you
16 can reference today, or that somebody else could
17 reference?

18 A. Depending on what facility I was, those
19 were always turned in to the coordinator.

20 Q. Do you know where any of that stuff is now?

21 A. I don't.

22 Q. Let's go to the second thing, B, the
23 specific membership and affiliation of the defendants
24 and victims in SNM. Is that something that you have
25 an opinion about?

1 A. The specific membership and affiliation?

2 Q. Correct. I mean, are you -- do you have
3 some sort of opinion about every defendant seated in
4 this room, about whether they're members or
5 affiliates of SNM?

6 A. Usually, if we have written down
7 information on individuals and it's in their file,
8 then, yes, I would have to read that file, and I
9 would have an opinion, yes.

10 Q. So what you're saying is -- we were talking
11 about the validation packet of Mr. Baca as Exhibit
12 18.

13 A. Correct.

14 Q. And what you're saying is that you could
15 have an opinion about somebody's membership or
16 affiliation with SNM based on reviewing this file,
17 and then just telling us what you think the file
18 says?

19 A. No. I also have information on what other
20 individuals have told me --

21 Q. Okay.

22 A. -- or what he's told me himself.

23 Q. I'm sorry? What other individuals have
24 told you or what the suspected SNM member has told
25 you himself?

1 A. Correct.

2 Q. Do you have admissions of SNM membership
3 from every -- do you personally have admissions of
4 SNM membership from every defendant seated here in
5 this courtroom?

6 A. No.

7 Q. So for any defendant who hasn't personally
8 admitted to you that they're a member of SNM, your
9 opinion would be based on your review of these
10 packages that were prepared regarding validation of
11 an inmate?

12 A. Yeah, based on whatever information we have
13 in our computer system and what's in their file.

14 Q. Okay. I'm confused, because I thought --
15 what is different between your, quote, "computer
16 system" and this validation packet?

17 A. There is also a classification file kept on
18 inmates, as far as their court documentation, what
19 they've done in court, or their history of doing time
20 in the New Mexico Corrections Department.

21 Also, our Criminal Management Information
22 System might have some things that are not contained
23 within that file as well. So I would have to
24 research some things on them in order to come up with
25 a conclusion whether they're an SNM member or not

1 based on the information that I have that's provided.

2 Q. And are you personally responsible for
3 inputting information into the CIM system?

4 A. No.

5 Q. And are you personally responsible for
6 putting together the classification files?

7 A. No.

8 Q. And would you agree with me that those two
9 sources of information are simply compiling
10 information from other sources?

11 A. Correct.

12 Q. So would it be your -- or it was your
13 understanding -- let me just go back.

14 What did you think that you were saying
15 when you said that you were going to testify or you
16 were going to -- yeah, testify -- to the specific
17 membership and affiliation of the defendants and
18 victims in the SNM? I mean, did you think you were
19 going to have to go through all those things, and
20 then research it and come up with a conclusion as to
21 each person sitting here in court?

22 A. A lot of them I know. A lot of them I've
23 interviewed before.

24 Q. I think you said you interviewed some, but
25 not all.

1 A. Correct.

2 Q. So as to the ones that you haven't, was it
3 your understanding that, in order to formulate some
4 sort of opinion, you were going to have to review
5 those things?

6 A. Correct.

7 Q. And have you done that before today?

8 A. No.

9 Q. So as you sit there right now, you don't
10 know what your opinion would be as to the specific
11 membership and affiliation of each defendant in this
12 courtroom?

13 A. Correct.

14 Q. I'm going to go to the next one. This is
15 page 2, C. The next thing that it's represented
16 you're going to testify to is, in general, and
17 specific to the SNM, Security Threat Group sanctions.
18 I'm just going to go piece by piece.

19 A. Okay.

20 Q. So that's something you have an opinion on?

21 A. Correct.

22 Q. And can you tell me what does it mean?
23 Security Threat Group sanctions?

24 A. Sanctions are violations that are broken
25 within the prison gang, rules that are broken, and

1 the sanctions that they would get.

2 Q. So, basically, what's being represented
3 here is that you're prepared to testify in general,
4 gangs in general, and specifically the SNM, what kind
5 of sanctions might be imposed if a member violated
6 some sort of rule, right?

7 A. Correct. Like if he ratted on someone,
8 pretty much, he would be given the death penalty.

9 Q. And so my question is: What informs or
10 what's the basis of that opinion? How do you know?

11 A. Through the interviews that I've conducted,
12 and members, too.

13 Q. And so your opinion would simply be based
14 on things that other people have told you?

15 A. Right. And there is documentation to
16 corroborate that that's happened, yes.

17 Q. But there is no requirement that there be
18 corroboration?

19 A. Well, my time and experience have pretty
20 much told me that those things are true based on the
21 interviews that I've done and members that I've
22 talked to.

23 Q. So any one of the people that you've talked
24 to or members that you've interviewed, could come in
25 and testify as to what the Security Threat Group

1 sanctions are for various misbehaviors?

2 A. I don't know.

3 THE COURT: Ms. Jacks, I promised the men
4 that we'd get them out of here at 5:30. Is this a
5 good place to break?

6 MS. JACKS: That's fine.

7 THE COURT: All right. Be safe. See y'all
8 tomorrow. I appreciate everybody's hard work.

9 MS. DUNCAN: Your Honor, we have one
10 housekeeping matter. I would just ask the Court to
11 caution the witness, since he is on
12 cross-examination, not to discuss his testimony with
13 anyone else.

14 THE COURT: All right. Is that agreed to?
15 All right. Don't discuss your testimony with anybody
16 else.

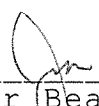
17 (The Court stood in recess.)
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C-E-R-T-I-F-I-C-A-T-E

UNITED STATES OF AMERICA
DISTRICT OF NEW MEXICO

I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
Official Court Reporter for the State of New Mexico,
do hereby certify that the foregoing pages constitute
a true transcript of proceedings had before the said
Court, held in the District of New Mexico, in the
matter therein stated.

In testimony whereof, I have hereunto set my
hand on December 6, 2017



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